

REPORTER'S RECORD

VOLUME 11 OF 21 VOLUME(S)

TRIAL COURT CAUSE NO. 1376988P

COURT OF APPEALS CASE NO. 02-14-00412-CR

FILED IN
2nd COURT OF APPEALS
FORT WORTH, TEXAS3/27/2015 12:36:05 PM
DEBRA SPISAK
Clerk

THE STATE OF TEXAS

) IN THE 372ND JUDICIAL

VS.

) DISTRICT COURT

THOMAS OLIVAS

) TARRANT COUNTY, TEXAS

TRIAL ON MERITS CONTINUES

On the 17th day of September, 2014, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable Scott Wisch, Presiding Judge, held in Fort Worth, Tarrant County, Texas;

Proceedings reported by computerized machine shorthand with assisted realtime transcription.

KAREN B. MARTINEZ, CERTIFIED SHORTHAND REPORTER
Official Court Reporter
372nd Judicial District Court
Tarrant County, Texas

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P R O C E E D I N G S

Wednesday, September 17, 2014 9:27 a.m.

(OPEN COURT, DEFENDANT PRESENT, NO JURY)

(Witness on the stand)

THE COURT: State your full, legal name for Karen again, please.

THE WITNESS: Rebeca Ann Raudry.

THE COURT: And didn't I swear you in a while back.

THE WITNESS: Yes, sir.

THE COURT: And you remember all that still carries over, the oath, the rules, not talking to other people outside THE courtroom, wait for the question to be over before you answer, relax, speak slowly and clearly.

Do you remember all that?

THE WITNESS: Yes, sir.

THE COURT: All right. That's still on.

Are you still good with that?

THE WITNESS: Yes, sir.

THE COURT: All right.

Anything either side needs to address before we bring in the jury?

MS. KEENE: Judge, we have an oral motion in limine.

1 THE COURT: Okay.

2 MS. KEENE: On extraneous offenses and on
3 hearsay statements of Mechelle Gandy.

4 THE COURT: That's kind of vague. Anything
5 in particular? Do I need to send her out?

6 MS. KEENE: No. Basic introduction
7 of actual Facebook conversations, did Mechelle tell you
8 this, Did Mechelle tell you that, or any of the
9 conversations that they had, What did you and Mechelle
10 say on the telephone when you talked? I know that she
11 can talk --

12 THE COURT: Are you talking about this
13 witness?

14 MS. KEENE: Yes, this witness.

15 THE COURT: Why don't you take her out just
16 a second.

17 (Witness excused from courtroom)

18 THE COURT: All right. Specifically, what
19 are you concerned about? What statements do you think
20 might be elicited? And then if the State thinks there
21 is a hearsay exception, fine. And if the State's
22 convinced there's not, then I just want the record clear
23 what she doesn't need to be saying in front of the jury.

24 MS. KEENE: Okay. Just any statements that
25 she's going to attribute to Mechelle, Mechelle told

1 me... or any of those.

2 THE COURT: Okay. Any verbal, in person or
3 telephone or social media or text or something, that it
4 is her belief it's -- she's conversing with Mechelle on
5 the other end of the keypad. Okay.

6 Are there any statements that Mechelle Gandy
7 made to this witness that the State believes are
8 admissible under an exception to the hearsay rule?

9 MR. ROUSSEAU: Yes, Your Honor. First of
10 all, a little background, so you understand, there was a
11 lot of communications between Mechelle Gandy and Rebeca
12 Raudry dating back to, gosh, probably a year before this
13 incident or --

14 THE COURT: So approximately a year --

15 MR. ROUSSEAU: Approximately.

16 THE COURT: -- to the death date there was
17 some kind of communications going on?

18 MR. ROUSSEAU: And possibly before that.

19 THE COURT: Okay.

20 MR. ROUSSEAU: Because it was during
21 Mechelle Gandy's pregnancy.

22 THE COURT: Okay.

23 MR. ROUSSEAU: And I don't intend to go into
24 the nuts and bolts of those communications in any real
25 detail beyond asking did they occur, did you receive a

1 communication from her, that sort of thing. I
2 understand I can't get into the chapter and verse about
3 what was said.

4 But we're in a little bit of a gray area
5 because a lot of these communications from Mechelle this
6 witness this later confronted the Defendant with and he
7 acknowledges those communications. He acknowledges the
8 subject matter.

9 THE COURT: Hold that thought.

10 All right. This witness giving hearsay
11 statement just "Mechelle told me this..." in a vacuum, I
12 understand the hearsay. Or asking your client, Did you
13 tell Mechelle this, and him saying, I did, or I didn't,
14 the statement's not offered for the truth. It's offered
15 to show his reaction and whether he adopts it or not,
16 and if he says, I said that, then the answer is
17 admissible for its truth, but not the question.

18 MS. KEENE: I agree with that, Judge.

19 THE COURT: So you're good as long as in the
20 context of the conversation between this witness and
21 your client, that your limine isn't covering things he's
22 confronted with, as opposed to she said in private
23 conversations or text with the witness.

24 MS. KEENE: And -- correct. And, I mean, I
25 guess what I could do is say, Objection. He can say,

1 Not offered for the truth, and then we just proceed.

2 You know, because I agree with you.

3 THE COURT: That the --

4 MS. KEENE: It's not just rank hearsay being
5 put in. It's being offered for the purpose of what the
6 Court just stated.

7 THE COURT: The question. Yeah. I think --
8 do you have any different legal position on that?

9 MR. ROUSSEAU: It depends on what we're
10 talking about.

11 THE COURT: Her statement out of court is
12 not hearsay. It's simply offered to confront the
13 Defendant or any other witness. His answer is not
14 hearsay.

15 MR. ROUSSEAU: I think that --

16 THE COURT: It's admissible. So...

17 MR. ROUSSEAU: I believe -- I guess, let me
18 see if this answers your question.

19 THE COURT: Okay.

20 MR. ROUSSEAU: If, for example --

21 THE COURT: Or another exception where it
22 would be admissible for its truth, I'm open-minded to
23 that, too.

24 MR. ROUSSEAU: If, for example, Rebeca were
25 to say she -- in describing conversations between

1 herself and the Defendant, if she were to say -- and
2 this is not from an -- this is just me making this up,
3 Mechelle said you went over to her house on Wednesday,
4 is that true?

5 THE COURT: Uh-huh.

6 MR. ROUSSEAU: His response is, No, I
7 didn't.

8 THE COURT: Uh-huh. Then what Mechelle said
9 is not admissible, but his statement he did not go to
10 Mechelle's house is not hearsay and is admissible as
11 factual evidence.

12 MR. ROUSSEAU: I guess so. Yes, that would
13 be fine.

14 THE COURT: Yeah, Mechelle said you went to
15 Six Flags, Did you go to Six Flags, that doesn't mean
16 they did. But if he says yes, then that means the jury
17 can find they went to Six Flags. If he said no, it
18 can't be argued that what Mechelle said is true, because
19 Mechelle's statements is not admissible as the fact that
20 they went to Six Flags, merely as he was confronted with
21 that.

22 MR. ROUSSEAU: That's fine, Your Honor.

23 THE COURT: Or for notice that,
24 hypothetically, Mechelle says, That's your baby, answer,
25 No, well, the fact someone told him that someone thinks

1 that's his baby, his knowledge, it's admissible to
2 impute someone has made it clear to him that he was
3 aware of the accusation, whether true or not. There are
4 things it can be used for, but Mechelle's words alone,
5 unless there's exception to the hearsay rule that is
6 established when they're offered.

7 MR. ROUSSEAU: Sure. There is one instance
8 that I can think of off the top of my head where -- that
9 I believe there will be -- we will go into it, attempt
10 to go into it.

11 THE COURT: Uh-huh.

12 MR. ROUSSEAU: And I believe there is valid
13 hearsay exception. And that is when -- on the day of
14 March the 20th, 2011, earlier in the day, daytime,
15 daytime hours, Mechelle and Rebeca were in a telephone
16 conversation and during that telephone conversation
17 Mechelle said to Rebeca, "Guess who's texting me right
18 now," and Rebeca says, "Oh, you're kidding," and the
19 response essentially was "Yes, it's Thomas."

20 THE COURT: Okay. Hold that thought. Any
21 reason that wouldn't be a present-sense impression like
22 this blue car just ran the red light or any other thing
23 that's related at the time it's being observed?

24 MR. ROUSSEAU: And --

25 MS. KEENE: Huh?

1 MR. ROUSSEAU: -- I raised this --

2 THE COURT: Hold on.

3 MR. ROUSSEAU: I realize it's the Defense --

4 THE COURT: No. I understand it is hearsay,
5 but is it an exception if that's the context? If his --
6 if it's delivered in the context of what he represented,
7 as opposed to in some other form.

8 MS. KEENE: I think that -- and I think the
9 Court actually brought up a good exception and it may
10 fit that exception.

11 THE COURT: If --

12 MS. KEENE: I'd have to look at the exact
13 language of it. But I would object to that still based
14 on confrontation clause because it's being offered for
15 the truth of the matter asserted.

16 THE COURT: Well, and I think the
17 confrontation clause, if she was making that statement
18 to a police officer while filing a report, you might
19 have a good point.

20 MS. KEENE: Right.

21 THE COURT: But being made to an individual
22 in casual conversation, I think I understand where
23 you're coming from of they're offering it, but that --
24 as far as to the statement "Guess who's texting me right
25 now," I'm not sure it's there. But I would be happy to

1 look at any law to correct me.

2 MR. ROUSSEAU: If I may interject just a
3 little bit, and it doesn't go directly to your question,
4 Your Honor, but it may have an effect on everybody.
5 These are matters that the Defendant himself
6 acknowledges when he talks to the police and they are
7 also reflected in his phone records.

8 THE COURT: Okay.

9 MR. ROUSSEAU: Which will be admitted --

10 THE COURT: Some of this --

11 MR. ROUSSEAU: -- or offered.

12 THE COURT: -- having sat through pretrial
13 hearings and spent many hours in front of a computer
14 terminal with headphones, I think I understand where
15 you're coming from with that last statement. A
16 statement describing or explaining of any condition made
17 while the declarant was perceiving the event or
18 condition or immediately there after, 803.1.

19 MS. KEENE: Judge, I think the statement
20 that Mr. Rousseau wants to present does fit that
21 exception. I do. I think -- and so, I mean, I would
22 make that objection, but I recognize what the rule says
23 under 803.1 --

24 THE COURT: And --

25 MS. KEENE: -- and I think that that is an

1 exception. I would just ask the Court to give me a
2 running objection on that --

3 THE COURT: Well, you would just --

4 MS. KEENE: -- as far as the confrontation
5 clause.

6 THE COURT: -- make an objection hearsay,
7 and I'll overrule it and the record will reflect. If
8 it's delivered in the form it's proffered, I understood
9 your objection, I understood your hearsay objection, I
10 understand there appears to be on its face based on the
11 limited question and answer --

12 Short recess.

13 (Discussion off the record)

14 THE COURT: Let's go on the record.

15 I've talked to the attorneys. The State's
16 counsel went and talked to the witness to find out
17 specific information or to clarify certain information.
18 So the Defense motion in limine to general statements of
19 Mechelle Gandy made to this witness is granted. I'll
20 rule on their admissibility if asked to.

21 The motion in limine as to any statements
22 Mechelle Gandy made to the witness, which the Defendant
23 was confronted with by the witness, the motion in limine
24 is overruled as to specifically a reference to Mechelle
25 telling the current witness in the midst of a phone

1 conversation, Oh, my gosh, guess who's texting right
2 now. Because it appears if it develops in testimony as
3 proffered, it would be a present-sense impression. The
4 contents of what's being texted, the limine is in effect
5 unless and until the contents meet an independent
6 exception to the hearsay rule, or at least part and
7 parcel of the observation. And I'll have to have a
8 record to determine if they're just reading it as it
9 types or going back later and discussing something after
10 the impression has ended. What is immediately after, as
11 the rule requires, is a case-by-case decision and a
12 statement-by-statement decision.

13 Finally, I'm going to limine, at the request
14 of the State, any reference to any CPS inquiry that
15 occurred prior to the date of this offense involving
16 anybody. That's a double-edge sword. If it --

17 MS. KEENE: Say that one more time.

18 THE COURT: Involving anyone -- if there's
19 anything to do with CPS that anyone wants to go into,
20 something that's alleged to have happened before the
21 date of this offense, nobody needs to be talking about
22 anybody's CPS anything unless you come and express why
23 it has some bearing to this trial, not only with this
24 witness but for future reference any witness, unless you
25 can show some nexus that has to do with their bias or

1 their testimony or some door opened or some direct
2 connection to this case. Keep that simple.

3 MS. KEENE: I agree with that.

4 THE COURT: All right. So anything else for
5 record either side needs?

6 MR. ROUSSEAU: No, sir.

7 THE COURT: All right.

8 MR. ROUSSEAU: I need to get a little thing
9 marked here before the jury comes in.

10 THE COURT: That's fine.

11 (Witness retakes the stand)

12 (Jury seated in courtroom)

13 THE COURT: All right. Good morning. What
14 am I holding up?

15 SEVERAL JURY MEMBERS: Good morning.

16 THE COURT: What am I holding up?

17 SEVERAL JURY MEMBERS: The blue card.

18 THE COURT: The blue card. Thank you for
19 those full responses.

20 Did everyone follow these rules?

21 SEVERAL JURY MEMBERS: Yes.

22 THE COURT: We know you're going to, but I
23 have to ask so Karen can write it down. And, again, we
24 thank you.

25 And with that, the State may call and

1 identify its next witness.

2 MR. ROUSSEAU: Thank you, Your Honor. We
3 call Rebeca Raudry.

4 THE COURT: If you'd state your name again
5 for the jury and also for Karen one more time, please.

6 THE WITNESS: Yes, sir. Rebeca Ann Raudry.

7 THE COURT: Ms. Raudry, I swore you in and
8 placed you under oath and rules as a witness, and you
9 understand all that still carries over until the trial
10 is over?

11 THE WITNESS: Yes, sir.

12 THE COURT: All right. Mr. Rousseau.

13 REBECA RAUDRY,
14 having been first duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. ROUSSEAU:

17 Q. Good morning.

18 A. Good morning.

19 Q. You all right today?

20 A. Yes, as good as I can be.

21 Q. Little nervous?

22 A. A little bit, yes.

23 Q. It's all right. Well, we've already introduced
24 you. You are Rebeca Raudry, correct?

25 A. Yes.

1 Q. And that's Rebeca with one C?

2 A. Yes, sir.

3 Q. And your last name is R-A-U-D-R-Y?

4 A. Yes, sir.

5 Q. Since I can tell you're way younger than me, I'm
6 going to ask you. How old are you?

7 A. I just turned 34.

8 Q. And are you currently employed anywhere?

9 A. No, sir.

10 Q. Where do you live? With whom do you live?

11 A. With my father in Grapevine.

12 Q. And are there other people living there with you,
13 also?

14 A. Yes.

15 Q. Who are they?

16 A. My children.

17 Q. And what are your children's names?

18 A. Rya.

19 Q. Rya. That's a little girl, correct?

20 A. Yes. My seven-year-old.

21 Q. And your -- do you have a son, also?

22 A. Yes.

23 Q. And what is his name?

24 A. Mio.

25 Q. Mio. Because it's an unusual name, why don't you

1 spell both of -- both of those names are a little
2 unusual. Why don't you spell them for the court
3 reporter.

4 A. Yes. Rya is R-Y-A and Mio is M-I-O.

5 Q. And you told us about Rya, but how old is Mio?

6 A. He's 11.

7 Q. Both in school, obviously?

8 A. Yes.

9 Q. Are you in school, also?

10 A. Yes.

11 Q. And what is your -- what are you studying?

12 A. Criminal justice.

13 Q. Do you also do some volunteer work?

14 A. Yes.

15 Q. Where do you volunteer?

16 A. At the Grapevine Police Department.

17 Q. What do you do for the Grapevine PD?

18 A. Well, it varies. Sometimes I'll sit at the front
19 desk and show people where to go to pay their tickets.
20 Sometimes I help CID with computer projects, just
21 various paperwork, putting paperwork together.

22 Q. Whatever they need doing?

23 A. Yes.

24 Q. Okay. Well, do you know a person named Thomas
25 Olivas?

1 A. Yes.

2 Q. And frankly, we have -- I think we've probably
3 heard your name some mentioned in this trial already, so
4 I think the jury has some idea of who you are.

5 Do you see Mr. Olivas here in the courtroom
6 today?

7 A. Yes.

8 Q. And could you just point at him, please, and
9 describe something that he's wearing?

10 A. Yes. He's wearing a black suit.

11 Q. The gentleman on the end of this table?

12 A. At the end of the table, yes.

13 Q. All right. Thank you very much.

14 MR. ROUSSEAU: May the record reflect that
15 the witness has identified the Defendant?

16 THE COURT: It may.

17 Q. (BY MR. ROUSSEAU) Can you tell the jury how is
18 it that you came to know Mr. Olivas?

19 A. We met through MySpace, online.

20 Q. Did you eventually end up in a relationship with
21 him?

22 A. Yes.

23 Q. And is he the father of one of your children?

24 A. Yes.

25 Q. Which of your children is he the father of?

1 A. Rya.

2 Q. Rya. That's your little girl?

3 A. Yes.

4 Q. Do you recall about when it was that you met the
5 Defendant?

6 A. Around August 2006.

7 Q. August 2006?

8 A. Yes, sir.

9 Q. Did the two of you -- well, at some point in time
10 I know -- you just said you met in August. At some
11 point in time, did the two of you move in together?

12 A. Yes.

13 Q. And when was that?

14 A. Six months later, after we met online.

15 Q. Were you pregnant at that time?

16 A. I can't remember. I was pregnant around
17 November, I believe. I believe so.

18 Q. In either event, would it be safe to say the two
19 of you moved in together right around the time that you
20 got pregnant?

21 A. Yes.

22 Q. Pretty close?

23 A. Yes.

24 Q. When you first moved in together, where did the
25 two of you live?

1 A. We lived at my dad's.

2 Q. Is that the same place that you live now?

3 A. Yes.

4 Q. And are the two of you still living together as a
5 couple?

6 A. Can you repeat that, please?

7 Q. Are the two of you still a couple?

8 A. No.

9 Q. You no longer live together?

10 A. No.

11 Q. Are you married to the Defendant?

12 A. No.

13 Q. Have you ever been married to him?

14 A. No.

15 Q. Have you ever agreed with the Defendant that the
16 two of you are married?

17 A. No.

18 Q. Have you ever represented to other people that
19 you're married?

20 A. No.

21 Q. While the two of you were living together, did
22 you ever work outside the home?

23 A. No, I did not.

24 Q. So for the period of time that y'all lived
25 together, he was the only one who was working outside

1 the home?

2 A. Yes.

3 Q. Have you ever been treated for a mental health
4 condition?

5 A. Yes.

6 Q. When was that?

7 A. I was diagnosed years ago, so -- and treated, can
8 you kind of further explain what "treated" means?

9 Q. Oh, sure. I probably asked it probably a little
10 bit too open-ended.

11 You said you were diagnosed years ago?

12 A. Uh-huh.

13 Q. What is the condition and what's the diagnosis
14 and what period of time is it we're talking about that
15 you were diagnosed?

16 A. I've been diagnosed with bipolar and
17 posttraumatic stress. And it's been so many years since
18 that, I really don't know.

19 Q. Tell me, were you a teenager?

20 A. Yes.

21 Q. Have you taken medication for those conditions in
22 the past?

23 A. Yes.

24 Q. Are you taking medication now?

25 A. No.

1 Q. Can you tell -- give the jury an idea of how long
2 it's been since you've taken medication?

3 A. It's been about two and a half, three years.

4 Q. Have you ever been diagnosed as having any type
5 of schizophrenia?

6 A. No.

7 Q. During the time that you and the Defendant were
8 together, what type of work did the Defendant do?

9 A. He worked retail. He worked at Truluck's
10 restaurant and eventually got a job at Best Buy, and he
11 was in the Air Force Reserves.

12 Q. Was he in the Air Force Reserves when the two of
13 you met?

14 A. Yes.

15 Q. To your knowledge, has the Defendant ever been
16 assigned to active duty?

17 A. No.

18 Q. Has he ever been sent overseas?

19 A. No.

20 Q. Has he ever been enrolled in any type of a school
21 that you're aware of?

22 A. No.

23 Q. Give the jury an idea of what his military
24 commitments required of him, time-wise.

25 A. Well, he usually would just go maybe twice a

1 week, once a month to Fort Worth. And maybe once a year
2 he would have a two-week -- I'm not sure what they call
3 it -- military leave where they would send him out for
4 two weeks, somewhere out of town for training.

5 Q. And that would be for, you'd say, approximately
6 two weeks at a time?

7 A. Yes, sir, like once a year, but monthly he would
8 just be gone once like two days.

9 Q. A weekend?

10 A. Yes, a weekend.

11 Q. And I'm sorry. I'm talking over you a little
12 bit. I apologize for that.

13 A. Okay.

14 Q. So I asked you if he's ever been in any type of
15 school and I'm including any type of technical school
16 training, any type of junior college or community
17 college, any type of vocational training that you're
18 aware of, anything of that nature at all?

19 A. No.

20 Q. Have you ever known the Defendant to suffer from
21 any chronic health problem?

22 A. No.

23 Q. Specifically, have you ever known him to complain
24 about having a skin condition known as eczema?

25 A. No.

1 Q. Do either one of your children have eczema?

2 A. Yes.

3 Q. Which one?

4 A. Rya.

5 Q. And what does it look like?

6 A. Well, she'll get kind of dry -- dried patches on
7 her elbows, usually, or her upper arms. It's not
8 severe. But they're just dry patches. Turns kind of
9 pink.

10 Q. Have you ever known him to suffer from that
11 condition?

12 A. No.

13 Q. Did he ever scratch himself while he was sleeping
14 to the point that he would make his skin bleed?

15 A. No.

16 Q. Did he ever scratch himself while he was sleeping
17 so much that he would wake you up?

18 A. No.

19 Q. Have you ever known him to begin itching
20 uncontrollably as soon as he takes off his shirt?

21 A. No.

22 Q. Did he ever take off his shirt when you -- the
23 two of you would go to a swimming pool?

24 A. Yes.

25 Q. During the summertime, did he wear shorts, short

1 pants?

2 A. Yes.

3 Q. When he would wear short pants, would his legs
4 break out in big red welts?

5 A. No.

6 Q. In the summertime, or in warmer weather, did he
7 wear short-sleeved shirts?

8 A. Yes.

9 Q. T-shirts, that sort of thing?

10 A. Yes.

11 Q. Did he -- did his arms break out in big red welts
12 or -- where he would have to continuously scratch
13 himself when he was wearing short-sleeved shirts?

14 A. No.

15 Q. Does he wear hoodies -- you know what a hoodie
16 is?

17 A. Yes, sir.

18 Q. Well, does he wear hoodies and other jackets,
19 even in the summertime, to keep from scratching himself?

20 A. No.

21 Q. In your experience with the Defendant, do you
22 know him to be highly emotional? And by that I mean, is
23 he the type of person who will cry easily?

24 A. I've seen him cry, but it's really hard to say
25 with him.

1 Q. I understand. It depends on the situation?

2 A. Yes.

3 Q. And I realize I'm jumping around a little bit.
4 We'll settle down in a little bit, but I needed to ask
5 you some of these questions upfront.

6 I want to ask you about firearms. Did -- to
7 your knowledge, did the Defendant ever own a firearm?

8 A. No.

9 Q. And I mean a gun of any type; handgun, shotgun,
10 rifle, anything at all?

11 A. No.

12 Q. Were there any problems around your apartment
13 with animals, that is, squirrels, raccoons, that sort of
14 thing, where they were maybe tearing up your property?

15 A. No.

16 Q. Or raising all kinds of Cain, making lots of
17 noise where it was difficult to sleep?

18 A. No.

19 Q. And basically just becoming -- just varmints
20 becoming a nuisance, was that a problem that y'all had
21 at the apartment where you lived with the Defendant?

22 A. No.

23 Q. And I may have gotten a little -- I've gotten
24 ahead of myself just a little bit.

25 You told us earlier that he lived with you

1 at your father's home, correct?

2 A. Yes, sir.

3 Q. At some point in time did the two of you and your
4 children move to an apartment?

5 A. Yes.

6 Q. And do you recall the address of that apartment?

7 A. I know it was Park Boulevard in Grapevine. It
8 was right across the street, pretty much, from my dad's
9 house.

10 Q. How long would it take you to walk it?

11 A. Less than five minutes.

12 Q. So essentially across the street a little bit you
13 got an apartment with the Defendant?

14 A. Yes.

15 Q. Wow. So I'm -- these questions I'm asking you
16 about, varmints and all that stuff, I'm asking about the
17 apartment. Nothing, no problems of that nature you're
18 aware of?

19 A. No.

20 Q. How about back at your dad's house?

21 A. No.

22 Q. Did he ever tell you he needed, you know, a
23 handgun or any type of firearm so that he could address
24 this problem with squirrels and raccoons and other
25 woodland creatures?

1 A. No.

2 Q. All right. I want to turn your attention now to
3 Mechelle Gandy. Okay? And you understand that that's
4 what we're here to talk about, correct?

5 A. Yes.

6 Q. Did you ever have any in person, face-to-face
7 contact with a woman named Mechelle Gandy?

8 A. No.

9 Q. I'm going to ask you a question and I want you to
10 understand that I'm not asking for any -- to tell us
11 anything that anyone said. Okay?

12 A. Okay.

13 Q. Do you recall how you first learned that Mechelle
14 Gandy even existed?

15 A. Yes.

16 Q. How is it that you found out that she even
17 existed?

18 A. Text message.

19 Q. A text message to you?

20 A. No.

21 Q. Where did you see this text message?

22 A. On Thomas' phone, cell phone.

23 Q. Okay. And did you -- was it a text message that
24 caused you some concern?

25 A. Yes.

1 Q. Did you confront him with it?

2 A. Yes.

3 Q. What did you say to him?

4 A. I asked him who Mechelle was and what the text
5 was about.

6 Q. And when you were asking him what the text was
7 about, did you actually say the words that were in it?

8 A. Yes.

9 Q. Okay. And what were those words?

10 A. "Is that all you want?"

11 Q. That's the text that you related to him, "Is that
12 all you want"?

13 A. Yes.

14 Q. And what was his response?

15 A. He said it's just some girl, some crazy girl
16 that -- someone from Boston's, a waitress gave her the
17 number to find work, and she got ahold of his number
18 somehow and she's been stalking him.

19 Q. Before you asked Thomas about that, confronted
20 Thomas with that, with that text message, did you
21 actually call that person?

22 A. Yes.

23 Q. Okay. And did you have a conversation with her?

24 A. Yes.

25 Q. And was the Defendant's explanation consistent

1 with your -- with Mechelle's?

2 A. No.

3 Q. Was that the beginning of an ongoing, on again --
4 sometimes on/sometimes off, issue involving Mechelle
5 Gandy, between you and the Defendant?

6 A. Yes.

7 Q. Did it pop up from time to time?

8 A. Yes.

9 Q. Did you ever ask the Defendant anything about a
10 child that belonged to Mechelle Gandy?

11 A. Yes.

12 Q. What did you ask him?

13 A. I asked him if he got Mechelle pregnant and if
14 the baby was his.

15 Q. And what did he say?

16 A. He said no.

17 Q. Did he acknowledge ever spending any time with
18 Michelle at all -- and I'm sorry -- Mechelle.

19 Did he ever acknowledge ever -- prior to
20 March the 20th of 2011, did he ever acknowledge to you
21 spending any time with her?

22 A. No.

23 Q. Did you receive at your home, at your father's --
24 or did a birthday invitation arrive at your father's
25 home at some point?

1 A. Yes.

2 MR. ROUSSEAU: May I approach, Your Honor?

3 THE COURT: Yes.

4 Q. (BY MR. ROUSSEAU) Are you okay?

5 A. Yes.

6 Q. All right. All right. I want to show you what
7 I've had marked as State's Exhibit No. 231-A, which is
8 an envelope, and State's Exhibit No. 231, which is the
9 contents. Okay?

10 A. Yes.

11 Q. And take a look at both of those items and tell
12 me -- and then I'll ask you a question about them.

13 Okay?

14 A. Yes, sir.

15 Q. Have you had a chance to look at them?

16 A. Yes.

17 Q. Do you recognize those two items?

18 A. Yes.

19 Q. Is this the invitation that came to your --

20 A. My --

21 Q. -- father's home?

22 A. Yes.

23 Q. Okay. Did you show this to the Defendant?

24 A. Yes.

25 Q. Did you question him concerning the contents of

1 this envelope?

2 A. Yes.

3 Q. And is this the original?

4 A. Yes.

5 Q. Now, is there something that was contained inside
6 the State's Exhibit No. 231 that is no longer inside of
7 it?

8 A. Yes.

9 Q. And except for that, does it appear to be in the
10 exact same condition that it was when you received it?

11 A. Yes.

12 MR. ROUSSEAU: I'll offer 231 and 231-A,
13 subject to any objection by the Defense.

14 MS. KEENE: No objection, Judge, to 231 or
15 231-A.

16 THE COURT: All right. Each are admitted as
17 offered, 231, 231-A, State's exhibits.

18 (State's Exhibit No. 231 and 231-A admitted)

19 MR. ROUSSEAU: Thank you, Judge. May I
20 publish, Your Honor, using the ELM0?

21 THE COURT: Yes, you may.

22 Q. (BY MR. ROUSSEAU) I'm going to show first 231-A.
23 Is this the envelope that you're talking about that
24 contained an invitation?

25 A. Yes.

1 Q. 214 Brookside Drive, is that your address?

2 A. Yes, sir.

3 Q. Up at the top you can see a postage stamp. Does
4 that say -- this is the stamp over here. But does it
5 say "February 2011"?

6 A. Yes.

7 Q. Right there. In fact, it's "08, February 2011".
8 Can you make that out or would it be helpful -- more
9 helpful if you saw the actual envelope?

10 A. I can make it out.

11 Q. Is that what at that says, 08?

12 A. February, yes, 08.

13 Q. And I see that the return address is "Olivas",
14 correct?

15 A. Yes.

16 Q. Is that your address, 2216 Presidents Corner,
17 No. 601, Arlington, Texas 76011?

18 A. No.

19 Q. Okay. Now, I'm going to lay 231 on top of 231-A.
20 Is this the outer covering of the invitation?

21 A. Yes.

22 Q. Is this part of the interior, "first birthday"?

23 A. Yes.

24 Q. And is this the way the interior reads, Asher
25 for -- the party is for Asher Rion Olivas?

1 A. Yes.

2 Q. Gives the date of February 27th, correct?

3 A. Yes.

4 Q. Gives the same address as appears on the outside
5 of that envelope that we just looked at?

6 A. Yes.

7 Q. "Given by the coolest mom ever"?

8 A. Yes.

9 Q. And it lists the things that are needed, correct?

10 A. Yes.

11 Q. What was inside of this -- what was inside of
12 that invitation that's no longer inside?

13 A. A picture of Asher.

14 Q. Where is that picture now?

15 A. It's in my living room on the mantel.

16 Q. At your house?

17 A. Yes.

18 Q. Why did you keep it?

19 A. I kept it because it was really the only picture
20 I had of him and...

21 Q. Why do you feel the need to keep a picture of
22 Mechelle Gandy's child?

23 A. Because in all reality, he's my daughter's little
24 brother.

25 Q. Okay. You're pretty emotional right now. I

1 don't -- and I understand. Do you need a moment or are
2 you okay?

3 A. I'm okay.

4 Q. Okay. Take a drink of water if you need to.
5 Obviously, that was received in February of 2011,
6 correct?

7 A. Yes.

8 Q. And it came to your father's house?

9 A. Yes.

10 Q. That you picked it up, correct?

11 A. Yes.

12 Q. And did you -- well, were you shocked by the
13 contents?

14 A. Yes.

15 Q. Did you talk to the Defendant about it?

16 A. Yes.

17 Q. And what was his response when you showed him the
18 birthday invitation which contained a picture of Asher?
19 What was his response? And you can use the words that
20 he used.

21 A. Okay. I showed him the invitation and the
22 picture of Asher and he said, "I don't want to fucking
23 look at that. I don't want to fucking look at that."

24 Q. Did he say anything about -- did he refer to
25 Asher in any way that upset you?

1 A. Yes.

2 Q. What did he say?

3 A. He said, "That fucking baby is the devil's
4 child."

5 Q. Did he ask -- did he ever refer to -- well, by
6 that time had you had any communications with Mechelle
7 directly?

8 A. Yes.

9 Q. And was he aware of that fact?

10 A. Yes.

11 Q. Have you heard him use the term "bulldog"?

12 A. Yes.

13 Q. Tell us about that.

14 A. Well, when I had started talking to Mechelle, he
15 knew about it and he said, "Why are you talking to that
16 fucking bulldog?" He would always just call her ugly
17 names, and that was the main one he used.

18 Q. Were you a hundred percent convinced by this time
19 that Mechelle -- that Mechelle was in fact -- let me
20 back up.

21 Were you convinced by this time that Asher
22 was the Defendant's child or did you have doubts?

23 A. I had some doubts still. I just wasn't sure.

24 Q. Was his -- did he deny that Asher was his child?

25 A. Yes.

1 Q. In fact -- and I'm going to jump ahead a little
2 bit.

3 In the time after March the 20th of 2011,
4 when Asher was already dead, did you ever ask the
5 Defendant then if he was the father of Asher?

6 A. Yes.

7 Q. And what was his response then?

8 A. No.

9 Q. Did the subject of paternity testing ever come
10 up?

11 A. Yes.

12 Q. Did you discuss that issue with the Defendant?

13 A. Yes.

14 Q. What was your viewpoint on the topic of paternity
15 testing?

16 A. I basically said to man up and go get it done.
17 If he's not your child, it won't be so hard to go to
18 Court or wherever he needed to go to get it done.

19 Q. At that point was he still denying that he had
20 ever had sexual relations with Mechelle Gandy?

21 A. Yes.

22 Q. Did you or Thomas receive any letters addressed
23 to him regarding the topic of paternity testing?

24 A. Yes.

25 Q. Now, were those from Mechelle?

1 A. No.

2 Q. Do you recall who they were from?

3 A. They were from the Attorney General's Office.

4 Q. Did you read them?

5 A. Yes.

6 Q. Did they contain any references to specific dates
7 that he was supposed to have shown up?

8 A. Yes.

9 Q. So when you asked him to go ahead and take a
10 paternity test, get this thing settled once and for all,
11 how did he respond?

12 A. He said, "Okay. I'll get it done."

13 Q. To your knowledge, did he ever?

14 A. No.

15 Q. Okay. I want to turn your attention to the
16 week -- do you understand and remember that March the
17 20th of 2011 was a Sunday?

18 A. Yes.

19 Q. I want to back up to a point earlier in the week,
20 Tuesday. It's going to be Tuesday, March 15th. Now,
21 you and I have had a chance to talk about these events
22 before; is that correct?

23 A. Yes.

24 Q. And we've actually looked at a calendar and
25 established what day of the week certain things happened

1 on; is that correct?

2 A. Yes.

3 Q. Are you comfortable when I say Tuesday, April --
4 Tuesday, March 15th, you received a telephone call?

5 A. Yes.

6 Q. From the Defendant?

7 A. Yes.

8 Q. Are you comfortable with that?

9 A. Yes.

10 Q. Okay. Tuesday, March 15th, did you receive a
11 telephone call from the Defendant while he was at work?

12 A. Yes.

13 Q. Why was he calling?

14 A. He said, "She's here."

15 Q. What did you take that to mean?

16 A. I assumed -- well, at first I was like, well,
17 who, and then I assumed it was Mechelle.

18 Q. Had he called -- was that the first time he had
19 called you?

20 A. No.

21 Q. And I mean that day?

22 A. Oh, that day. He -- yes.

23 Q. So when he called you, what did he want you to
24 do?

25 A. To pick him up at work.

1 Q. Describe his mood.

2 A. Very agitated.

3 Q. He wanted you to come pick him up. So did you
4 go?

5 A. Yes.

6 Q. Why would you have had to go pick him up? Did he
7 not have a car of his own?

8 A. No, he didn't.

9 Q. How many cars did y'all own between the two of
10 you?

11 A. I have my own car.

12 Q. You had a car?

13 A. Yes. He didn't have any car in his name at all.
14 We shared my car.

15 Q. What type of vehicle was that?

16 A. A Toyota Camry.

17 Q. So that's the only car -- as far as you know, the
18 only car that he routinely had to get around in?

19 A. Yes.

20 Q. And sometimes he used it and sometimes you used
21 it?

22 A. Yes.

23 Q. All right. So he asked you to come get him,
24 correct?

25 A. Yes.

1 Q. Did you go?

2 A. Yes.

3 Q. Where were your kids?

4 A. They were with me.

5 Q. So they were in the car?

6 A. Yes.

7 Q. So this would be 2011, three and a half years
8 ago?

9 A. Yes.

10 Q. So they were about eight and four or so?

11 A. About three and seven.

12 Q. Okay.

13 A. Three and eight.

14 Q. Did he come outside the store and get in your
15 car?

16 A. Yes.

17 Q. When he got in your car, what was his mood like?

18 A. Very angry.

19 Q. Was he angry at you?

20 A. Yes.

21 Q. Why was he angry at you?

22 A. Because I didn't answer the phone soon enough and
23 I didn't pick him up fast enough.

24 Q. Well, what did he say when he got in the car?

25 A. He said, "That bitch is here. She won't leave us

1 alone. I fucking hate her."

2 Q. Do you recall anything else that he said?

3 A. No.

4 Q. Okay. And this was -- this would have been on
5 Tuesday, March the 15th, five days before the fire,
6 correct?

7 A. Yes.

8 Q. Let's move ahead to the next day, Wednesday,
9 March the 16th. Did -- well, before we do that, let me
10 ask you, at any point in time did you become aware of a
11 problem being able to receive calls or communications,
12 text communications on your phone from Mechelle?

13 A. Yes.

14 Q. When did you become aware of that?

15 A. Probably sometime in March when I started talking
16 to Mechelle more.

17 Q. And do you know why you were unable -- do you
18 know why you were unable to receive those
19 communications?

20 A. No. I wasn't sure why.

21 Q. Did you ever ask the Defendant?

22 A. Yes.

23 Q. What did he say?

24 A. He said he doesn't want her calling us anymore so
25 he blocked her.

1 Q. He had blocked her from calling?

2 A. Yes.

3 Q. And you didn't find out about it for a while?

4 A. Right.

5 Q. I skipped something. Back when he first was in
6 the car -- I'm sorry.

7 When you picked him up from Best Buy, and
8 I'm talking about Tuesday now.

9 A. Yes.

10 Q. And you told us what he had to say and his mood.
11 How do you respond to that? When he tells you she's
12 here and he used some bad language, he's angry at her,
13 how do you respond?

14 A. I was basically, "Well, what do you expect? You
15 need to -- I told him, "I'm stuck in the middle. I'm
16 fucking stuck in the middle and I'm tired of it and I'm
17 tired of feeling like you getting mad me for no reason,
18 tired of not knowing the truth, what's going on."

19 Q. Was there ever a time, right around that time,
20 when you stopped believing Thomas about Asher and
21 Mechelle and you started to believe Mechelle?

22 A. Yes.

23 Q. When did that occur and -- when did that occur?

24 A. In March 2011.

25 Q. Did you ever receive any communications from

1 Mechelle that made you change your mind?

2 A. Yes.

3 Q. Was it -- and I'm not asking you about words that
4 she sent you or said to you, but did she ever send you
5 anything on your phone or to a computerized account that
6 made you convinced that she was, in fact, telling you
7 the truth?

8 A. Yes.

9 Q. Was it something that she did on her own or was
10 it at your urging?

11 A. I urged her.

12 Q. You asked her to do it, right?

13 A. I asked her.

14 Q. To essentially "show me what you've got"?

15 A. Yes.

16 Q. And did she?

17 A. Yes.

18 Q. Did she send you some photographs?

19 A. Yes.

20 MR. ROUSSEAU: May I approach, Your Honor?

21 THE COURT: Yes.

22 Q. (BY MR. ROUSSEAU) I want to show you State's
23 Exhibit No. 211 and ask you if you recognize this
24 photograph?

25 A. Yes.

1 Q. Is this a photograph that was sent to you by --
2 well, I'll ask you that in a moment.

3 You recognize the content of the photograph?

4 A. Yes.

5 Q. Okay. Had you ever -- this photograph, had you
6 ever seen this same photograph -- had you ever had this
7 photograph sent to you from another source?

8 A. I'm not sure I understand.

9 Q. Mechelle sent you this photograph, correct?

10 A. Yes.

11 Q. Had you ever received this same photograph from
12 another source, from someone else?

13 A. Yes.

14 Q. And from whom was that?

15 A. Thomas.

16 MR. ROUSSEAU: I'll offer --

17 Q. (BY MR. ROUSSEAU) And is this photograph a true
18 representation, a duplicate of the photograph that you
19 received from Michelle?

20 A. Yes.

21 Q. And does it -- Mechelle, I'm sorry -- and does it
22 appear to be changed in any way?

23 A. No.

24 MR. ROUSSEAU: I apologize, Your Honor.

25 I'll offer State's Exhibit --

1 What is the number, Joetta?

2 MS. KEENE: Number 211.

3 MR. ROUSSEAU: State's 211, subject to any
4 objection by the Defense.

5 MS. KEENE: Judge, may I take the witness on
6 voir dire?

7 THE COURT: Yes, you may.

8 VOIR DIRE EXAMINATION

9 BY MS. KEENE:

10 Q. Ms. Raudry, I'm going to show you what's been
11 marked as State's Exhibit No. 211. There's a lot of
12 writing at the top of that.

13 A. Yes.

14 Q. Do you see that?

15 A. Yes.

16 Q. Was the picture sent to you with all that writing
17 on the top of it?

18 A. I don't remember the writing.

19 Q. You just remember getting a picture?

20 A. Yes.

21 Q. So this, with the writing on it, does not fairly
22 and accurately depict what you were sent? Does that
23 make sense?

24 A. No, it doesn't make sense.

25 Q. You were just sent a picture. Your picture

1 didn't have a bunch of writing on the top?

2 A. I don't remember.

3 MS. KEENE: Judge, I would object to 211 in
4 that it didn't fairly and accurately represent what she
5 was sent.

6 THE COURT: Y'all come up here.

7 (Discussion at the bench, off the record)

8 THE COURT: All right. For the record, I've
9 reviewed the exhibit with counsel. On the top 15 to
10 20 percent of the exhibit is a bunch of writing, typed
11 information, which is not being admitted. The State
12 would like that part of the exhibit conditionally
13 admitted under Rule 104 but not for publication and
14 intends to address that with a subsequent witness.

15 So all that is admitted is the image, not
16 any writing on the face of the exhibit, other than the
17 exhibit sticker.

18 Is that acceptable, Defense, at this time,
19 pending connection of the writing later?

20 MS. KEENE: It is, Judge.

21 THE COURT: All right. Then your objection
22 to the written part of the document is sustained. The
23 document has been amended to make that not visible to
24 the jury. It will be published, but the writing won't
25 be visible and will address that with a subsequent

1 witness. But the image contained on 211 is admitted.
2 I'll allow the image portion only to be published. And
3 the Court, under the supervision of the lawyers, has
4 occluded the written information on the face of the
5 exhibit.

6 (State's Exhibit No. 211 admitted)

7 THE COURT: Are you satisfied, having
8 observed the occlusion, that it's adequate for your
9 purposes?

10 MS. KEENE: Yes.

11 THE COURT: All right. And is the State
12 satisfied with that?

13 MR. ROUSSEAU: Yes. Yes, Your Honor.

14 THE COURT: All right.

15 DIRECT EXAMINATION CONTINUES

16 BY MR. ROUSSEAU:

17 Q. Rebeca, just to recap, you received the
18 photograph that we've just had admitted conditionally as
19 State's Exhibit 211, you received -- you had this sent
20 to you by Mechelle Gandy, correct?

21 A. Yes.

22 Q. And it was at your urging, correct?

23 A. Yes.

24 THE COURT: For the record, the image is
25 admitted unconditionally. The written part is admitted

1 conditionally and not for publication unless fully
2 admitted, so...

3 MS. KEENE: That's my understanding, Judge.

4 THE COURT: Yeah. Okay. I just wanted to
5 be clear, to be fair to the State, he's using words with
6 the witness but the record reflects otherwise.

7 You may continue.

8 MR. ROUSSEAU: Thank you, Your Honor.

9 Q. (BY MR. ROUSSEAU) Why did you want her to send
10 you photographs?

11 A. Because I wanted -- I felt stuck in the middle
12 and I wanted to hear her side finally, like really give
13 her a chance.

14 Q. Was this an attempt by you to let her show you
15 her proof?

16 A. Yes.

17 Q. Proof of the relationship with the Defendant?

18 A. Yes.

19 Q. Now, this is a photograph, did she ever send you
20 any text messages? Were you able to get any of those?

21 A. Yes.

22 Q. Were they also text messages from the Defendant?

23 A. Yes.

24 Q. She forwarded them to you, correct?

25 A. Yes.

1 Q. This photograph -- and we're about to show this
2 to the jury -- was the only photograph that she sent
3 you?

4 A. No.

5 Q. Were the other ones of a very similar nature?

6 A. Yes.

7 MR. ROUSSEAU: May I publish, Your Honor?

8 THE COURT: Yes. And do you intend to do it
9 by walking it in front of the jury box or are you going
10 to pass it to them and have them pass to each other?

11 MR. ROUSSEAU: I'll hold it.

12 THE COURT: You'll walk it?

13 MR. ROUSSEAU: Yes, sir.

14 (Pause in proceedings)

15 THE COURT: All right. The exhibit has been
16 published to the jury, the image part only.

17 You may continue.

18 Q. (BY MR. ROUSSEAU) Was there -- just so we're
19 clear, the image that we've been talking about in 211 is
20 an image of a penis, correct?

21 A. Yes.

22 Q. And other than the penis itself, was there
23 something in the background of the image that convinced
24 you that it was, in fact -- that helped you recognize
25 where this photograph was taken?

1 A. Yes.

2 Q. Where was it taken?

3 A. In our bathroom.

4 Q. So when you got this image, I guess other
5 photographs, as well, when you actually received them,
6 was the Defendant at home?

7 A. No.

8 Q. Were you at home?

9 A. Yes.

10 Q. In your apartment?

11 A. Yes.

12 Q. When the Defendant came home that day, did you
13 and he have a conversation about this?

14 A. Yes.

15 Q. How did that conversation go?

16 A. Badly. It turned into an argument.

17 Q. Did he have an explanation for how Mechelle might
18 have gotten these images, these photographs?

19 A. He said that she must have hacked into our
20 phones.

21 Q. How did that hit you?

22 A. I thought it was ridiculous.

23 Q. Did you tell him that?

24 A. Yes.

25 Q. This would have been on Wednesday night, the day

1 after your -- you picked him up at work?

2 A. Yes.

3 Q. What happened -- how did -- at the end of this
4 conversation between yourself and Thomas, you -- you've
5 already said it blew up into an argument, correct?

6 A. Yes.

7 Q. At the end of this argument, how did it -- how
8 did the argument end?

9 A. He kicked me and the kids out of the apartment.

10 Q. And what time of the day was this?

11 A. It was about 11:45 at night, almost midnight.

12 Q. Were the kids in bed?

13 A. Yes. They were in the room, bed.

14 Q. What did he say about you leaving the apartment?
15 You said he kicked you out. What did he actually tell
16 you? What did he say?

17 A. He said, "Get the fuck out of here. You take the
18 kids and get the fuck out of here. I don't even want to
19 look at you. You're never going to believe me anyways.
20 You're worthless."

21 Q. So what did you do?

22 A. I quietly tried to get the kids. I tried to rush
23 out of there and I grabbed the kids. I called my dad.

24 Q. Why did you call your dad?

25 A. I felt a little scared and I wanted him to know

1 what was going on so he wouldn't wonder, well, who's
2 coming into the house late at night or...

3 Q. Did your dad actually come over?

4 A. He didn't go over. I believe he was just --
5 since it's literally right down the street, he just -- I
6 believe he got in his car and just kind of sat on Park
7 Boulevard and waited until I took my car over there.

8 Q. Okay. Before you got out of the apartment, did
9 something happen?

10 A. Yes.

11 Q. What was that?

12 A. Well --

13 MR. ROUSSEAU: Just a moment, please. Just
14 a moment.

15 (Sotto voce discussion between attorneys)

16 Q. (BY MR. ROUSSEAU) I'm sorry. Go ahead. What
17 happened before you got out of that apartment?

18 A. Well, as I was leaving with the kids, I had Rya
19 in my arms and Mio was holding my hand. And we were on
20 the balcony, we were on the second-level apartment. And
21 I just pretty much wanted to get out of there. I didn't
22 really -- I grabbed maybe a few little things, like a
23 little bit of clothes. I didn't really grab much of
24 anything, just a couple of things.

25 And as I was walking down the stairs, I

1 looked up and he just looked at me like -- just so mean
2 and evil.

3 Q. Did you have your telephone with you?

4 A. I had my cell phone, too, and he grabbed -- he
5 grabbed the cell phone out of my hand and threw it into
6 the street.

7 Q. This is the same phone that you had shown the
8 photographs to him on?

9 A. Yes.

10 Q. So did you pick up your phone? Did you find it?

11 A. Well, when I was walking down the stairs, I tried
12 to look for it, but I just couldn't find it. And I told
13 the kids, "Let's just go. I don't need my phone." So I
14 never got it.

15 Q. So did you go to your dad's house that night?

16 A. Yes.

17 Q. Over the course of the next few days, did you
18 have some communications with Mechelle?

19 A. Yes.

20 Q. Did you receive, at some point in time, a
21 telephone call -- and I don't mean on -- obviously not
22 on your cell phone, but a voice message on another phone
23 from the Defendant about Mechelle?

24 A. Yes.

25 Q. What did he say? Let me ask you another way.

1 Was there ever a concern about you being
2 allowed to recover some of your belongings from the
3 house, taking some of your stuff?

4 A. Yes.

5 Q. Did he ask you -- did he leave a voice message
6 about that?

7 A. Yes.

8 Q. What did he say?

9 A. Well, he basically didn't want me to get my stuff
10 at first.

11 Q. Okay. When he talked to you, when he left this
12 voice message, did he reference any communication from
13 Mechelle?

14 A. Yes.

15 Q. What did he say?

16 A. He just said, "That fucking bulldog, why are you
17 talking to her," that's basically what I can remember.

18 Q. That's fine. Well, I'm going to move ahead a
19 little bit.

20 Did you become aware -- well, was there ever
21 communication between yourself and the Defendant prior
22 to March the 20th of 2011?

23 A. Yes.

24 Q. About -- after he kicked you out, but before the
25 murders, did you receive any communications from him

1 about an attempted suicide by him?

2 A. Yes.

3 Q. Did you talk to him about it or communicate with
4 him about it prior to those murders?

5 A. Yes.

6 Q. Did you talk to him about it after those murders?
7 And I'm talking now in a Facebook communication.

8 A. Yes.

9 Q. Did he tell you that he had, in fact, taken some
10 of your medication and tried to kill himself?

11 A. Yes.

12 Q. Did he tell you that he had -- that a friend had
13 talked him into --

14 MR. MOORE: Your Honor, I'm going to have to
15 object to him leading the witness.

16 MR. ROUSSEAU: I'll rephrase, Your Honor.

17 Q. (BY MR. ROUSSEAU) Had you received any
18 communications from a friend of his on this same topic?

19 A. Yes.

20 Q. Would that -- does he have a friend named Isaac?

21 A. Yes.

22 Q. Did the Defendant have anything to say regarding
23 Isaac's role in this attempted suicide?

24 A. Yes.

25 Q. What did he say?

1 A. He said that Isaac made him throw up, to throw up
2 the pills, and that he was calling the ambulance or
3 about to call the ambulance.

4 Q. And was he quite insistent that -- was he very
5 specific about having taken your medication?

6 A. Yes.

7 Q. Did you believe him?

8 A. No.

9 Q. Did he tell you -- did he say whether or not he
10 had actually gotten sick from having taken the pills?

11 A. No.

12 Q. Okay. I want to move on a little bit to March
13 the 20th, 2011. And you understand that's a Sunday,
14 correct?

15 A. Yes.

16 Q. That's the day of the murders?

17 A. Yes.

18 Q. Were there any communications between yourself
19 and Mechelle that day?

20 A. Yes.

21 Q. And how did those communications take place, like
22 were they computer, were they text messaging, was it
23 telephone? That's what I --

24 A. On my dad's house phone.

25 Q. On your dad's house phone?

1 A. Yes.

2 Q. Did you -- had you replaced your cell phone yet?

3 A. No.

4 Q. So you were reduced to old-school communications
5 on a regular telephone?

6 A. Yes.

7 Q. While you were talking to Mechelle on the phone,
8 during the conversation with you, did she make reference
9 to something that was happening right then?

10 A. Yes.

11 Q. And what was that something that she was
12 referencing?

13 A. That Thomas was texting her while we were
14 talking.

15 Q. And if you don't remember, that's fine, but do
16 you remember what time of day this would have been?

17 A. About 5:30, 6:00, sometime early evening.

18 Q. Do you know your dad's house phone number?

19 A. Yes.

20 Q. What is it?

21 A. It's 817-481-1214.

22 Q. How did you come to find out that Mechelle and
23 her son had been killed?

24 A. The Arlington Police Department called me around
25 6:00 the next morning and -- well, actually, they called

1 me two or three times and left voicemails on the house
2 phone, but I didn't receive them until around 6:00 in
3 morning when I woke up the kids for school and I saw the
4 little red light on the phone indicating there were
5 voicemails left.

6 Q. So did you call them back?

7 A. Yes.

8 Q. And how did that make you feel?

9 A. Scared, confused, angry, frustrated.

10 Q. The night before, before you had gone to bed that
11 night, had you -- did you notice -- or I don't know if
12 it was before you went to bed or not, but were you aware
13 of the Defendant having posted something on Facebook
14 late at night that night?

15 A. On which night?

16 Q. The night of -- I guess it would be the very
17 early morning hours of the 21st.

18 A. Yes.

19 Q. What was it that he posted, do you recall?

20 A. If I remember correctly, it was a song.

21 Q. Is that normal for him?

22 A. Not really.

23 Q. What did he -- how did he normally use Facebook?

24 A. To play -- I forgot the name of the game, but
25 he'd usually just go on there and play games. And once

1 in a while he would post a post about work, or if he was
2 out of town, he would say stuff like "I miss my baby
3 mama." And we would communicate on there. But he
4 wasn't like a regular user, except play the game.

5 Q. Did the police come to your house that morning?

6 A. Yes.

7 Q. And did you actually provide them with a key to
8 get into your apartment over there on Park?

9 A. Yes.

10 Q. Did you help them in any way that you could?

11 A. Yes.

12 Q. Did you ultimately end up meeting with Detective
13 Stewart, or with a detective anyway, from the Arlington
14 Police Department and giving an interview?

15 A. Yes.

16 Q. And did you on subsequent days provide them
17 access to your Facebook account so that they could
18 review Facebook conversations between you and the
19 Defendant?

20 A. Yes.

21 Q. In later days after March the 20th of 2011,
22 did -- well, right away let's talk about in that first
23 couple of weeks.

24 Did you have any face-to-face communications
25 with the Defendant right -- in the next couple of weeks

1 after this all happened?

2 A. No.

3 Q. Did you have communications with him via
4 Facebook, though?

5 A. Yes.

6 Q. Did you ever ask him what he had done, where he
7 had been during the time that Mechelle and Asher were
8 killed?

9 A. Yes.

10 Q. What did he say?

11 A. He said he wanted to meet up with her, they ended
12 up talking and wanting to meet up to look at the papers.

13 Q. They ended up talking, you mean on the telephone?

14 A. I'm not sure how they communicated.

15 Q. Okay.

16 A. And that they were going to meet up, but he drove
17 out to Arlington and drove up and down Lamar for a good
18 while. And he said he kept trying to call her or
19 contact her and he didn't hear anything, so he said he
20 stopped at a couple of places while he was in Arlington
21 and then he said he drove home.

22 Q. Did he tell you specifically that he tell -- did
23 he tell you specifically that she texted him telling him
24 to call her for directions?

25 A. Can you repeat that, please?

1 Q. Do you recall him telling you that she texted him
2 and told him to call her for directions?

3 A. I believe so.

4 Q. Okay. Would it be helpful for you if you looked
5 at your -- at some of the Facebook conversation, would
6 that refresh your memory?

7 A. Yes.

8 MR. ROUSSEAU: May I approach, Your Honor?

9 THE COURT: Yes.

10 MR. ROUSSEAU: Joetta, I'm looking at March
11 30, 12:12 p.m.

12 Q. (BY MR. ROUSSEAU) Just read it to yourself.

13 A. Okay.

14 Q. Does that help you remember?

15 A. Yes.

16 Q. Do you recall him asking -- telling you
17 specifically that she texted him saying call me for
18 directions?

19 A. Yes.

20 Q. And that he called her but she never answered?

21 A. Correct.

22 Q. During those days when you were communicating
23 with him via Facebook, did he ever tell you that he
24 never met Asher?

25 A. Yes.

1 Q. Did you ask him whether he -- whether after he
2 found out that Mechelle was pregnant, did you ask him if
3 he ever had anything to do with her, ever slept with her
4 again?

5 A. Yes.

6 Q. And what did he say?

7 A. He said absolutely not.

8 Q. Did he say that he never even saw her again after
9 she found out she was pregnant?

10 A. Correct.

11 Q. Did you ever remind him about his comment
12 regarding his comment that he thought of Asher as the
13 devil's child? Did you ever remind him of that in a
14 Facebook conversation?

15 A. Yes.

16 Q. And do you recall how he responded?

17 A. Yes.

18 Q. Did he acknowledge -- well, how did he respond?

19 A. He acknowledges that he called him that.

20 Q. Do you recall him saying whether or not he was
21 devastated by the death?

22 A. No.

23 Q. You don't recall him saying or...

24 A. I do recall him saying that he wasn't devastated.

25 Q. Do you recall a question from him inquiring about

1 your involvement with the police?

2 A. Yes.

3 Q. Tell us about that.

4 A. He thought that the reason why I want to
5 communicate with him on Facebook was possibly because
6 the police were putting me up to it.

7 Q. Were they?

8 A. Not at all.

9 Q. Do you recall accusing him in there of having
10 told Mechelle that he loved her?

11 A. Yes.

12 Q. How did he respond to that?

13 A. He said that he told her he loved her so that way
14 she would leave us alone.

15 Q. Did that sound logical to you?

16 A. Not at all.

17 Q. I want to move ahead a little bit. These
18 communications that we've been talking about involving
19 Facebook, those were in the first few weeks after
20 Mechelle and Asher were killed; is that correct?

21 A. Yes.

22 Q. As time passed, weeks turned into months, did you
23 eventually reestablish contact with him, actual
24 face-to-face communication?

25 A. Yes.

1 Q. Did there -- was there a time when you actually
2 ended up spending time with him again?

3 A. Yes.

4 Q. Explain to the jury about that.

5 A. Well, since months had passed, I wasn't sure how
6 to really feel. I still wanted to believe in my gut
7 that he had nothing to do with it, but at the same time
8 I was scared of him and I didn't want to take his
9 daughter completely away from him, so I was kind of
10 in -- stuck in the middle, not knowing what to do. And
11 then, of course, I had spent almost five years of my
12 life with him and I was just used to being around him,
13 so I don't really know, I was just...

14 Q. For a while did you see him again?

15 A. Yes.

16 Q. And did you have -- did you allow him to see the
17 children again?

18 A. Not Mio, just Rya.

19 Q. Just Rya.

20 Was there a time when the three of you went
21 to a swimming pool?

22 A. Yes.

23 Q. Where -- which pool was that?

24 A. At the apartments.

25 Q. And the three of you were there?

1 A. Yes.

2 Q. Was Rya swimming?

3 A. Yes.

4 Q. Were all of you swimming?

5 A. Yes.

6 Q. Did he have his shirt off?

7 A. Yes.

8 Q. Did something happen that day that made you
9 change your mind about spending any more time with him?

10 A. Yes.

11 Q. What was it?

12 A. We were at the pool and Rya was throwing her
13 regular three-year-old -- one of her regular
14 three-year-old tantrums and kind of screaming and she
15 didn't want to leave or whatever, and for some reason --
16 and I never really had seen Thomas respond in any manner
17 like this with her tantrums before, but he's like "make
18 her stop screaming, make her stop."

19 Q. And you're holding --

20 A. Like -- he was like kind of -- like almost
21 panicking.

22 Q. You were holding your hands to the side of your
23 head at the time, correct?

24 A. Yes. He -- and I thought that's really weird
25 because he was -- never acted like panicky when she had

1 her tantrums.

2 Q. Why did that bother you?

3 A. Because I was thinking maybe -- I was just
4 thinking of Asher, that maybe he heard sounds from Asher
5 screaming or crying.

6 Q. Can you tell me whether or not you had any --

7 A. May I have a minute, please?

8 Q. Sure.

9 THE COURT: You know what, it's 11:00
10 o'clock.

11 Jurors, let's take a break.

12 (Break taken, 11:00 - 11:20 a.m.)

13 (OPEN COURT, DEFENDANT AND JURY PRESENT)

14 (Witness on the stand)

15 THE COURT: All right. Still your witness.

16 MR. ROUSSEAU: Thank you, Judge.

17 Q. (BY MR. ROUSSEAU) Rebeca, I just have another
18 question or two.

19 Do you recall asking the Defendant, after
20 the murders, in the time you were communicating by
21 Facebook, do you recall asking him about a time when
22 he -- in February, the preceding February, when he did
23 not come home at night?

24 A. Yes.

25 Q. What did you ask him? Well, I tell you what,

1 tell us why you were asking him that and -- let me do it
2 again.

3 Stop. I'll rephrase.

4 THE COURT: New question.

5 MR. ROUSSEAU: New question.

6 Q. (BY MR. ROUSSEAU) Was there a time in February
7 when he did not come home from work?

8 A. Yes.

9 Q. And did you ultimately in those Facebook
10 communications, did you ask him about that night?

11 A. Yes.

12 Q. And what did he say?

13 A. He said he was at Truluck's where he worked just
14 helping out with setting up tables, cleaning up, and
15 that he -- it was one of those snow days where it was
16 really icy and snowy and he said he just pretty much
17 fell asleep in the car for a while and didn't really
18 want to drive quite yet.

19 Q. Would this have been right around the time that
20 the Super Bowl was in town?

21 A. Yes.

22 MR. ROUSSEAU: That's all I have, Your
23 Honor. I'll pass the witness.

24 THE COURT: Defense may cross.

25 CROSS-EXAMINATION

1 BY MS. KEENE:

2 Q. Rebeca, my name is Joetta Keene and I represent
3 Thomas. Okay?

4 A. Yes.

5 Q. And I have a lot of questions I want to ask you.
6 Okay?

7 A. Yes.

8 Q. I'm going to try to go slow, but sometimes I go
9 fast.

10 A. Okay.

11 Q. Okay?

12 A. Yes.

13 Q. You and I have never met, have we?

14 A. No.

15 Q. If you do not understand a question I ask you,
16 will you please just don't answer something that's not
17 accurate.

18 A. Yes.

19 Q. Just stop, breathe, and answer the question the
20 best you can.

21 A. Yes.

22 Q. Is that an agreement?

23 A. Yes, ma'am.

24 Q. How many -- when is about the first time period
25 you had contact with Mechelle Gandy?

1 A. It was around August '09 when I found that text
2 message in Thomas' phone.

3 Q. And you called her, correct?

4 A. Yes.

5 Q. You had a conversation with her --

6 MS. KEENE: Judge, may I approach the board?

7 THE COURT: Yes.

8 Q. (BY MS. KEENE) In August of '09?

9 A. Yes.

10 Q. And about how many conversations did you have in
11 '09, or during this time period?

12 A. Not many.

13 Q. Was it just one day?

14 A. Excuse me?

15 MS. KEENE: Judge, can I get this moved up
16 for me?

17 THE COURT: Yes, you may.

18 Q. (BY MS. KEENE) Was it just one?

19 A. Yes. I believe it was one, maybe two, tops.

20 Q. R-E-B-E-C-C-A?

21 A. One C.

22 Q. R-E-B-E-C-A, R-A-U-D-R-Y?

23 A. Yes.

24 Q. And Mechelle Gandy. Okay. Does that make sense,
25 what we're going to go through is different

1 conversations and the time periods that you had with
2 Mechelle?

3 A. Yes.

4 Q. Okay. The very first one was in August of 2009,
5 correct?

6 A. I believe so.

7 Q. And in August of 2009 you confronted her about a
8 text that she had with Thomas?

9 A. Yes.

10 Q. And wanted to know who she was?

11 A. Yes.

12 Q. And it's safe to say that at this point you are
13 thinking that she just might be another woman who's
14 having relations with your man, so to speak?

15 A. Yes.

16 Q. And so you're confronting her accordingly?

17 A. Yes.

18 Q. And how many conversations did you have with her
19 in August of 2009?

20 A. One, maybe two, tops.

21 Q. And how are these conversations?

22 A. They were tame. They were --

23 Q. No, no, no, no. Were they live? On the
24 telephone?

25 A. Oh. Yes, they were on the telephone.

1 Q. They were both on the telephone?

2 A. Yes.

3 Q. Was there any texting back in '09?

4 A. I recall her texting me once or twice.

5 Q. So there were two live conversations and then she
6 may have texted you several times?

7 A. Not several times. Once or twice.

8 Q. Okay. And then text one to two times; is that
9 correct?

10 A. Yes.

11 Q. Was there any other conversations back in August
12 of 2009?

13 A. Conversations between Mechelle and I?

14 Q. Whether it be by text, telephone, Facebook,
15 e-mail, social media, on a game, any sort of
16 communications in any manner between you and Mechelle in
17 August of 2009?

18 A. No. We really just had one full conversation,
19 but she tried to text me like one or twice and I ignored
20 her the other times. So...

21 Q. And this was all August 2009?

22 A. I don't fully remember.

23 Q. Okay. Was there ever a time period that you
24 actually kind of gave her the "what for" about leaving
25 you alone and stop texting you?

1 A. Yes.

2 Q. Is this at this time period or is this later?

3 A. I don't remember the time period because this ran
4 for a long time. She would leave and then come back and
5 then try to contact us and not -- I don't really
6 remember the exact timeframe.

7 Q. But you know that in August of 2009 is the first
8 time that you had any knowledge of her?

9 A. Yes.

10 Q. And was there a time period that you got one of
11 your friends to contact her and give her the "what for"?

12 A. Yes.

13 Q. Was that back in August of 2009 or was that more
14 close to this March or February?

15 A. I don't remember.

16 Q. Do you remember if it was within a month or two
17 of Mechelle being murdered or if it was years before?

18 A. I'm sorry. Can you repeat that, please?

19 Q. Do you remember -- I know you don't remember the
20 exact date. But do you remember if it was within a
21 month or two months before she was murdered or within
22 years of her being murdered?

23 A. Within years.

24 Q. All right. So back at least in the 2009 time
25 period?

1 A. Yes.

2 Q. What was your friend's name that you had call
3 Mechelle and give her the "what for"?

4 A. Charla.

5 Q. Sharla?

6 A. Charla.

7 THE COURT: Spell it.

8 THE WITNESS: C-H-A-R-L-A.

9 Q. (BY MS. KEENE) And what is Charla's last name?

10 A. At the time it was Storey.

11 Q. Storey?

12 A. Yes.

13 THE COURT: Spell that, if you know.

14 THE WITNESS: S-T-O-R-E-Y.

15 Q. (BY MS. KEENE) S-T-O-R-E-Y?

16 A. Yes.

17 Q. And how are you friends with Charla Storey?

18 A. We went to high school together.

19 Q. So this is someone you've known since you were a
20 child?

21 A. Not since I was a child.

22 Q. At least since you were in high school?

23 A. Yes.

24 Q. And this was a person that you solicited to call
25 and talk to Rebeca?

1 A. No, to Mechelle.

2 Q. I meant -- I'm sorry -- I'm looking at your name.
3 To Mechelle?

4 A. To Mechelle.

5 Q. And why did you want Charla to call and give
6 Mechelle the "what for" back in '09?

7 A. I don't really -- I was kind of -- I don't really
8 know. I felt like maybe Mechelle would tell her
9 something she wouldn't tell me or...

10 Q. Well --

11 A. I don't know.

12 Q. I'm sorry.

13 THE COURT: Joetta. Slow down. You're
14 talking over the witness. Y'all are speeding each other
15 up. Deep breath. Carry on.

16 Q. (BY MS. KEENE) Charla, describe what Charla
17 looks like.

18 A. She has long brown hair.

19 Q. About how tall?

20 A. Five -- she's taller than me. I'm five-four.
21 Five-six. I don't know.

22 Q. Is she heavy? Skinny?

23 A. Skinny.

24 Q. Okay. And is there some reason that you would
25 have her call to talk what apparently, or it looks like

1 to you, is a mistress of your man?

2 A. I just thought that Mechelle -- or that Mechelle
3 would tell her -- I don't really know why, particularly
4 why I had her call. But I thought maybe if one of my
5 friends calls, she'll feel like -- maybe she'll tell
6 Charla more information or tell her something that she
7 wouldn't tell me.

8 Q. Okay. So basically you've been telling -- you
9 tell Mechelle you don't want any contact -- "don't
10 contact me," correct?

11 A. Right.

12 Q. But then you have one of your friends contact
13 her?

14 A. Yes.

15 Q. Okay. Is there any other person, whether it be a
16 male, female, any other way that you sent communication
17 to Mechelle back in '09?

18 A. No.

19 Q. When is the next time that you have communication
20 with Mechelle?

21 A. Well, she tried to text me once and I ignored
22 her. And then the real communication I had again with
23 her was in March 2011.

24 Q. So she tries to text you. How does somebody try
25 to text you?

1 A. Well, she texted me.

2 Q. Okay. And about what time period is it that she
3 text you?

4 A. I would say in the morning. I was on my way to a
5 yoga class at 24-Hour Fitness in Southlake, Texas.

6 Q. So we know it's in the morning. Number two, is
7 that -- it's in the morning, but do you have any idea
8 what year it's in?

9 A. I don't recall. I don't remember.

10 Q. Is it in the '09, is it in the --

11 A. I don't remember.

12 Q. Okay. Morning, and don't remember...

13 But Mechelle Gandy texted you; is that
14 correct?

15 A. She did text me, yes.

16 Q. And you did not respond in any way to this text?

17 A. No.

18 Q. When you got this text, did you confront Thomas
19 again about being a cheater?

20 A. Yes.

21 Q. And this is sometime after 2009 and before 2011,
22 correct?

23 A. Can you please repeat that?

24 Q. This is sometime after 2009 --

25 A. Uh-huh.

1 Q. -- and before 2011?

2 A. Yes.

3 Q. Okay. When is the next conversation that you
4 had, in any manner, with Mechelle?

5 A. In March 2011.

6 Q. All right. Do you recall having a conversation
7 with her on Facebook in February 17th of 2011?

8 A. I don't recall.

9 MS. KEENE: Judge --

10 Q. (BY MS. KEENE) If I showed you your Facebook
11 communications, would that help refresh your memory?

12 A. Yes, it would.

13 MS. KEENE: Judge, may I approach the
14 witness?

15 THE COURT: Yes, you may.

16 Q. (BY MS. KEENE) If you'll just read though
17 silently to yourself so you can remember, if it
18 refreshes your memory, about any conversations in
19 February.

20 A. Okay. I've read through it.

21 Q. And does that help refresh your memory about a
22 conversation with -- that you had with Mechelle in
23 February 2011?

24 A. Yes.

25 Q. And that's a conversation that y'all had

1 privately on Facebook?

2 A. Yes.

3 Q. And on Facebook you can privately message someone
4 else who's on Facebook?

5 A. Yes.

6 Q. That doesn't have to broadcast to the entire
7 world?

8 A. Correct.

9 Q. And this is a conversation you had privately with
10 Mechelle on Facebook?

11 A. Yes.

12 Q. And you confronted Mechelle in 2011 about
13 paternity court papers?

14 A. Yes.

15 Q. Okay. And what -- and that was February 17th?

16 A. Correct.

17 Q. Of 2011, correct?

18 A. Yes.

19 Q. "R.R. confronts M.G. about court paperwork,"
20 really.

21 A. Yes.

22 Q. And when you confronted her about the court
23 paperwork, you're confronting her about the fact that
24 Mechelle Gandy had missed appointments?

25 A. Yes.

1 Q. And you're confronting her about the fact that
2 the case had actually been dismissed?

3 A. Yes.

4 Q. And that if she's missing going to see the
5 attorney general and going to these appointments and
6 getting the case dismissed, how are you supposed to
7 believe that this kid is Thomas', kind of the gist?

8 A. Yes.

9 Q. And that's something that you had a confrontation
10 with her about in February of 2011?

11 A. Yes.

12 Q. And in this same string you also were very clear
13 about the fact that you wanted her to stop bothering you
14 and messing with your family, your children, and
15 basically "quit harassing us"?

16 A. Yes.

17 Q. Okay. So, basically, "Stop bothering us"?

18 A. Yes, "Please stop bothering my family and I."

19 Q. Okay. So then you tell her please stop
20 bothering...

21 And you actually accuse her of being
22 unstable, correct?

23 A. Yes.

24 Q. And -- because you believe that she is basically
25 being a nut, she's saying that Thomas is a cheater,

1 she's saying Thomas is the father of her baby, she
2 didn't follow through with her paperwork and basically
3 harassing y'all?

4 A. Yes.

5 Q. And so "you're unstable, I don't know what you're
6 on but --

7 A. I didn't say, "I don't know what you're on."

8 Q. But basically, "Get out of our lives"?

9 A. Basically, yes.

10 Q. Okay. And that is in February of 2011; is that
11 correct?

12 A. Yes.

13 Q. And that is nothing that you testified to earlier
14 with the jurors, is it?

15 A. I'm not sure I understand that.

16 Q. All right. When is the next time you had a
17 conversation in any manner with Mechelle Gandy after
18 February 17th of 2011?

19 A. I believe it to be in March.

20 Q. All right.

21 A. But I don't...

22 Q. Did you have -- how was the conversation?

23 A. Ummm.

24 Q. By what means?

25 A. Through Facebook.

1 Q. Okay. And, actually, we need to --

2 A. And -- well, there is a couple ways we
3 communicated, which was through Facebook and my dad's
4 house phone.

5 Q. Okay. And February 17th of 2011, that was by
6 Facebook only?

7 A. Yes. But, actually, I also had my cell phone
8 then, so I'm pretty sure I communicated with her with my
9 cell phone, as well. Not my dad's house phone until
10 March, 2011.

11 Q. So in February there's conversations on Facebook?

12 A. And my cell phone.

13 Q. And then there's also conversations on
14 Facebook -- I mean -- on cell phone?

15 A. Yes.

16 Q. And what was your cell phone number?

17 A. I don't remember my old cell phone number.

18 Q. Okay. I'll show you something in a minute.
19 We'll get back to that. Okay?

20 What was the conversations you had with her
21 on -- in February 17th on the telephone? About how long
22 was that conversation?

23 A. If I'm thinking of the right day, I believe it --
24 I know we've had some really long phone conversations,
25 but I don't remember the exact date.

1 Q. Do you think it was in February, the 17th?

2 A. I don't think so. I believe on the 17th was just
3 on Facebook.

4 Q. Okay. So you think you then have a conversation
5 on the cell phone in February, but after you told her --

6 A. After --

7 Q. -- to leave you alone?

8 A. Yes.

9 Q. So that would be the fourth contact, the fourth
10 different date where there's a contact; is that fair?

11 A. Yes.

12 Q. So basically you've got August, there was
13 different types of contact, a day we don't remember
14 where there's a contact; February, there's a Facebook
15 contact; and then after February the 17th, 2011, there's
16 conversations on the cell phone?

17 A. Yes.

18 Q. And that's cell phone to cell phone?

19 A. Yes.

20 Q. You're calling Mechelle's cell phone, too?

21 A. Yes.

22 Q. Was she calling you or were you calling her?

23 A. Both.

24 Q. So I did a little arrow going back and forth
25 between the two of you in some time period between

1 February 17th; is that correct?

2 A. Yes.

3 Q. All right. Now, when is the next conversation
4 that you actually remember having with her, what date?

5 A. I don't remember the date.

6 Q. Was it through Facebook?

7 A. Yes.

8 Q. And on March the 15th, did you and Mechelle have
9 another conversation on Facebook?

10 A. Yes.

11 Q. March 15th?

12 MR. ROUSSEAU: Thank you.

13 Q. (BY MS. KEENE) Yes?

14 A. Yes.

15 Q. So this is the fifth conversation. So this is
16 March 15th.

17 And did you have any contact with her on the
18 cell phone on March 15th?

19 A. What was the exact day of the week on March 15th,
20 please?

21 Q. Tuesday.

22 A. Tuesday? Yes.

23 Q. Do you remember who called who?

24 A. No, I don't remember. We all -- we just
25 constantly called back and forth to each other.

1 Q. So you're telling the jury by March 15th you guys
2 are constantly talking to each other on the telephone,
3 calling each other back and forth?

4 A. Yes.

5 Q. And you are Facebooking?

6 A. Yes.

7 Q. And any other conversations happened between the
8 two of y'all on March 15th?

9 A. No. Just through Facebook and phone.

10 Q. And this was a Tuesday. All right.

11 After the Tuesday conversations, is there
12 any more -- about how many conversations do you think
13 you had with her on the telephone?

14 A. A lot. I don't -- I can't recall the exact
15 amount --

16 Q. And certainly on Face --

17 A. -- of phone calls.

18 Q. I'm sorry. On Facebook probably had how many?

19 A. I have no idea how many, but I know it was a lot.

20 Q. You can refresh. I left my stuff up there in
21 front of you. Just count the number of conversations on
22 that date to yourself.

23 A. It might take a while.

24 Q. See if that helps refresh your memory.

25 THE COURT: When you get through counting,

1 look up and say, I'm ready.

2 MR. ROUSSEAU: Your Honor, I'm going to
3 object. And it's really more -- requesting more in the
4 nature of clarification the term "conversation". If are
5 we talking about specific back-and-forth, is that one
6 conversation or a series of like messages? If we can
7 narrow it down a little bit, it might be helpful.

8 THE COURT: Just in fairness to the witness,
9 are you asking how many sent or received transmissions
10 on Facebook occurred on that day?

11 MS. KEENE: Yes, sir.

12 THE COURT: Regardless of who sent or who
13 answered?

14 MS. KEENE: Yes.

15 THE COURT: All right.

16 Then just count the total number of
17 communications in either direction and then when you get
18 the number, you can look up.

19 THE WITNESS: As -- specifically for the
20 15th or this whole...

21 MS. KEENE: The 15th.

22 THE WITNESS: Okay.

23 THE COURT: Just for one day.

24 THE WITNESS: Okay. It looks like on the
25 15th, approximately, if I counted correctly, 34 back and

1 forth between -- altogether between Mechelle and I.

2 Q. (BY MS. KEENE) Thirty-four messages; is that
3 fair to say?

4 A. Yes. Yes.

5 Q. On Facebook. And about how many telephone
6 conversations on March the 15th?

7 A. I don't remember.

8 Q. And did you have any conversations with Mechelle
9 on the 16th?

10 A. Yes.

11 Q. And was that on Facebook or was that on
12 telephone?

13 A. Most likely both. And definitely on Facebook.
14 But I'm pretty sure we talked on the phone, as well.

15 Q. All right. Give us an idea on March 16th about
16 how many Facebook conversations y'all had.

17 A. About 16 on Facebook.

18 Q. Mechelle Gandy, Rebeca, Facebook, about 16
19 messages on the 16th, which is Wednesday?

20 A. Yes.

21 Q. How many phone conversations between you?

22 A. I don't remember.

23 Q. And on the 15th or the 16th, on either of these
24 days, did you confront Thomas with what you now believe
25 to be true, that being that he is a cheater?

1 A. Yes.

2 Q. Is that on one of those dates?

3 A. The 15th was Tuesday. Yes, 16th.

4 Q. Was that on the Wednesday, the 16th?

5 A. Yes.

6 Q. And so this -- on this day where you've been
7 communicating with Mechelle Gandy, you now confront
8 Thomas because you've got the picture of the penis?

9 A. Yes.

10 Q. And when you confronted Thomas, rather than you
11 kicking Thomas out, he kicked you out of the house?

12 A. Yes.

13 Q. And so you were kicked out of the house on the
14 16th?

15 A. Yes.

16 Q. And you went to your father's house?

17 A. Yes.

18 Q. You took your kids, correct?

19 A. Yes.

20 Q. And you began to live at your father's house from
21 the 16th --

22 A. Yes.

23 Q. -- on?

24 THE COURT: Pause. Let her finish her
25 questions. Let there be air in between her words and

1 yours, because those are two different people talking.
2 So you can't overlap. Just like I tell her, she can't
3 overlap your answers. We've got to let Karen do her
4 job. Okay?

5 THE WITNESS: Okay. Thanks.

6 THE COURT: Just, everyone, take a deep
7 breath and slow down.

8 THE WITNESS: Okay.

9 THE COURT: Next question.

10 Q. (BY MS. KEENE) Then on -- other than through
11 Facebook, you said there was also cell phone
12 conversations with Mechelle on the 16th?

13 A. Yes.

14 Q. And was it cell phone to cell phone or was it
15 house phone to cell phone?

16 A. By then it was from house phone to her cell
17 phone.

18 Q. All right. What is your father's house phone?

19 A. It was 817-481-1214.

20 Q. And so by now it's this phone number and
21 Mechelle's cell phone; is that correct?

22 A. Yes.

23 Q. And about how many conversations did you have
24 with her on the 16th?

25 A. On Facebook or the phone?

1 Q. Phone.

2 A. I don't remember.

3 Q. Many?

4 A. Yes.

5 Q. Was there ever a time that you confronted
6 Mechelle about showing up at Thomas' work, at Best Buy?

7 A. Yes.

8 Q. And was that prior to these dates when you got
9 kicked out?

10 A. Yes.

11 Q. Do you recall what date that was?

12 A. I don't recall, but I know it's in our
13 conversation here, in these Facebook conversations.

14 Q. But does that help refresh your memory about the
15 time period that it was? Was it after February 17th?

16 A. Yes.

17 Q. Would that have been about this time period of
18 the conversations on the cell phone, between
19 February 17th and March 15th, that you confront her
20 about her showing up at Thomas's work?

21 A. Yes.

22 Q. And did that bother you that she showed up at his
23 work?

24 A. Yes.

25 Q. And you gave her, for lack of a better word, the

1 "what for" about that?

2 A. Yes.

3 Q. And that would have been -- my question is, do
4 you have any idea what time period between February 17th
5 and March 15th that that was? And if you don't, you
6 don't.

7 A. Yeah.

8 Q. But it was between those dates?

9 A. It was between those dates.

10 Q. Okay. So I'm going to do a 4(A) because I missed
11 it. Okay? Do you recall if you did it on Facebook or
12 if you called her?

13 A. It was on Facebook.

14 Q. Okay. So you confront on Facebook. You confront
15 Mechelle Gandy about Best Buy; is that correct?

16 A. About -- can you please repeat that?

17 Q. Somewhere in between February 17th and March the
18 15th you confronted, on Facebook, Mechelle Gandy about
19 going to Best Buy?

20 A. Yes.

21 Q. And the Best Buy was in Grapevine?

22 A. Yes.

23 Q. And that's where Thomas worked?

24 A. Yes.

25 Q. And it wasn't but a mile from y'all's house --

1 A. Hang on.

2 Q. -- is that correct?

3 Fifteenth, you're talking to her multiple
4 times on Facebook, 16th you're talking to her multiple
5 times on Facebook. On any of these dates do you-all
6 actually meet face to face?

7 A. No.

8 Q. On any of these dates does she bring to you some
9 new paperwork that has now been filed?

10 A. Yes.

11 Q. Is that on any of these dates?

12 A. I don't remember the exact date.

13 Q. Okay. About -- would this have been after this
14 time period, if you know?

15 A. Yes.

16 Q. Would it have been prior to March 17th?

17 A. I believe so, yes.

18 Q. So about -- we can put "about" on the March 16th
19 date, is that right, about --

20 A. Yes.

21 Q. -- this date Mechelle Gandy brought to you some
22 paperwork?

23 A. Yes.

24 Q. Okay. And did she leave that paperwork in your
25 father's mailbox?

1 A. Yes.

2 Q. And this was a time period that you now were not
3 living at Thomas' -- you and Thomas were not living
4 together because you'd just gotten kicked out?

5 A. Correct.

6 Q. And now she's come over to your dad's house and
7 left some new paperwork, correct?

8 A. In the mailbox, yes.

9 Q. And you looked at the paperwork?

10 A. Yes.

11 Q. And the paperwork that you looked at looked like
12 she was being sued for some sort of paternity?

13 A. Yes.

14 Q. It was very confusing?

15 A. Yes. It was confusing paperwork.

16 Q. It said the case has been brought against
17 Mechelle Gandy?

18 A. Yes.

19 Q. And that's the paperwork she gave to you?

20 A. Yes.

21 Q. It didn't say the case has been brought against
22 Thomas, the paperwork she gave to you?

23 A. I don't remember word for word what was on that
24 paper, but I do remember it stating something against
25 Mechelle, and Thomas' name was on there, but I don't

1 remember in what manner.

2 Q. It seemed confusing to you that if someone wanted
3 to get paternity established for a father and get child
4 custody, that there would be paperwork that says it's
5 against them?

6 A. Right.

7 Q. That caused you -- you understood that that was
8 confusing?

9 A. Yes.

10 Q. And -- okay. So now by the 17th if you now have
11 this paperwork -- actually, there's a birthday that
12 happened before this. When did you get a birthday
13 invitation?

14 A. In February.

15 Q. In February?

16 A. Yes.

17 Q. Okay. Would that have been before the
18 February 17th --

19 A. Yes.

20 Q. -- "leave me alone"?

21 Okay. So prior to February 17th. Do you
22 have any idea what date that was?

23 A. I believe it was February 8th.

24 Q. Okay. So we'll do a 2(A) here.

25 And the birthday card was sent to your dad's

1 house, correct?

2 A. Yes.

3 Q. That's not where you and Thomas lived?

4 A. No.

5 Q. And this is the birthday card that's now been
6 introduced as State's Exhibit No. 231, 231-A, correct?

7 A. Yes.

8 Q. And you maintained this in your possession,
9 correct?

10 A. Yes.

11 Q. This is not something that was given to Thomas
12 for him to have, correct?

13 A. I don't -- it was given to us. I mean, I don't
14 really know how to answer that.

15 Q. Well, it came to your dad's house, correct?

16 A. Yes.

17 Q. It did not come to the apartment that you lived
18 with Thomas?

19 A. Correct.

20 Q. Thomas was not living at your dad's house when
21 this came to your house -- to your dad's house?

22 A. Correct.

23 Q. And --

24 THE COURT: Joetta, can I talk to you a
25 second?

1 MS. KEENE: Uh-huh.

2 (Discussion at the bench, off the record)

3 Q. (BY MS. KEENE) You received the card about on
4 February the 8th?

5 A. Yes.

6 Q. And that's a card that you received at your
7 father's house?

8 A. Yes.

9 Q. And that's a card that you ultimately turned in
10 to the police department?

11 A. Yes.

12 Q. And we'll get to that and when that happened.
13 Okay?

14 A. Okay.

15 Q. But that's a card that you kept and you had in
16 your possession?

17 A. Yes.

18 Q. Okay. That's not a card -- I understand it was
19 sent to Olivas family, but that's not a card that you
20 gave to Thomas?

21 A. No.

22 Q. You confronted him about a birthday card with
23 somebody's name, Olivas, a little kid on it, correct?

24 A. I don't know. I mean, I didn't know it was the
25 little kid's invitation before it was opened.

1 Q. Okay. February 8th you get the birthday
2 invitation and you opened the invitation; is that
3 correct?

4 A. Yes.

5 Q. And at some point you realize it is a little
6 kid's birthday invitation?

7 A. Yes.

8 Q. And you realize it is a little kid's birthday
9 invitation about this woman named Mechelle?

10 A. Yes.

11 Q. And you realized this is the same woman named
12 Mechelle that you've already had a "what for" with in
13 August of 2009?

14 A. Yes.

15 Q. And you realize this is the same person that you
16 had your friend even contact?

17 A. Yes.

18 Q. And then it's now in -- February 17th, prior to
19 the actual birthday, that you've told her to stop
20 bothering y'all?

21 A. Yes.

22 Q. Okay. Is there any other date within this that
23 we've missed?

24 A. I'm not -- I'm really not sure.

25 Q. Okay. Now March 16th, jumping forward, you're

1 having Facebook conversations with Mechelle; is that
2 correct?

3 A. Yes.

4 Q. You're having telephone conversations with
5 Mechelle?

6 A. Yes.

7 Q. And Mechelle has now brought you paperwork to
8 your father's house?

9 A. Yes.

10 Q. You did not go over to her house to pick up the
11 paperwork?

12 A. No.

13 Q. And the paperwork dealt with child custody?

14 A. Yes.

15 Q. Was there any other contact between you and
16 Mechelle, whether it be through people, telephones,
17 mail, Facebook, e-mail, on March 16th?

18 A. No.

19 Q. Okay. March 17th, was there any contact?

20 A. Yes.

21 Q. All right. How -- what was the contact?

22 A. It was through Facebook and phone.

23 Q. About how many Facebook conversations did you
24 have with Mechelle on the 17th?

25 A. Approximately 61 conversations.

1 Q. Sixty-one messages, correct?

2 A. Messages, yes.

3 Q. And so that's a 6-1. Does that look slightly
4 like a 6-1?

5 A. Yes.

6 Q. All right. So what 61 means is you sent her a
7 message, that's one; she sent you back, that's two?

8 A. Correct.

9 Q. Each one of those is a message?

10 A. Yes.

11 Q. And 61 of those back-and-forths, one way or the
12 other, happened on the 17th of March?

13 A. Yes.

14 Q. And by now this is Thursday; is that correct?

15 A. Yes.

16 Q. And then on the telephone how many conversations
17 did you have with her?

18 A. I don't remember.

19 Q. More than one?

20 A. Most likely, yes.

21 Q. More than two?

22 A. Probably.

23 Q. More than three?

24 A. I'm not sure.

25 Q. So two-plus?

1 A. Yes.

2 Q. And was that your house phone to her cell phone?

3 A. Yes.

4 Q. Were you ever using your father's cell phone to
5 talk to her?

6 A. No.

7 Q. But your father has a cell phone?

8 A. Yes.

9 Q. And you are now living at the house with your
10 father by the 17th?

11 A. Yes.

12 Q. Was anybody else at the house that you were
13 living with, other than your father?

14 A. Yes.

15 Q. Who else?

16 A. My children.

17 Q. Anyone other than your children and your father?

18 A. No.

19 Q. All right. Any other conversations on the 17th
20 with Mechelle?

21 A. No.

22 Q. Did you send any friends to talk to her?

23 A. No.

24 Q. Anybody dropping anything off?

25 A. No.

1 Q. Okay. On the 18th was there any contact between
2 Mechelle and you?

3 A. Yes.

4 Q. All right. How was the contact?

5 A. Facebook and phone.

6 Q. And this is Friday; is that correct?

7 A. Yes.

8 Q. How many contacts on Facebook did you have with
9 Mechelle?

10 A. Five.

11 Q. And during this time period you're still
12 basically broken up with Thomas?

13 A. Yes.

14 Q. And you're still living with your dad?

15 A. Yes.

16 Q. How many phone conversations do you have?

17 A. More than two again. Two-plus most likely.

18 Q. Is there any texting happening?

19 A. No.

20 Q. Okay. On March 18th is there any other
21 conversations that you've had with Mechelle?

22 A. On which day?

23 Q. On that Friday.

24 A. Just through Facebook and the phone.

25 Q. On Saturday, the 19th, was there any -- is there

1 any contact between you and Mechelle?

2 A. Yes.

3 Q. How was the contact?

4 A. Through Facebook and phone conversations.

5 Q. How many Facebook conversations?

6 A. Fourteen.

7 Q. And how many telephone conversations?

8 A. I would say again two-plus.

9 Q. And any other conversations, whether it be
10 e-mail, dropping things off, on the 19th, between you
11 and Mechelle?

12 A. No.

13 Q. On now the 20th, the day this happened. Okay.
14 That is a Sunday; is that correct?

15 A. Yes.

16 Q. You testified earlier with the jurors that you
17 had some telephone conversations with Mechelle on the
18 day she was murdered?

19 A. Yes.

20 Q. And about what time do you believe those
21 telephone conversations were?

22 A. Approximately 5:30 to 6:30.

23 Q. About how many phone conversations?

24 A. A lot. And I know there was phone calls even
25 prior to that earlier in the day, but I don't remember

1 the timing because I know she had to work.

2 Q. And so it was your understanding that Mechelle
3 was working on the 20th?

4 A. Yes.

5 Q. And you believe you talked to her in the morning?

6 A. I don't remember when exactly.

7 Q. When you're talking to her at 5:30 and 6:30 p.m.
8 on the phone, you believe that she's finished working?

9 A. Yes.

10 Q. And do you believe that she is now at her house?

11 A. She was on her way.

12 Q. To her house?

13 A. To pick up Asher from her mother's house.

14 Q. So you believe, what your knowledge is, at 5:30
15 and 6:30 she's about to have the baby and she's about to
16 be home?

17 A. Yes.

18 Q. And you know "home" to be the house or the
19 apartment on Presidents Corner because of the invitation
20 you got?

21 A. Well, I never really paid attention to the
22 address, but I knew through our conversations she lived
23 in an apartment.

24 Q. In Arlington?

25 A. Yes.

1 Q. You said you had about some -- about how many
2 phone conversations did you have with her in the morning
3 hours?

4 A. I don't remember.

5 Q. One or two?

6 A. More than two, maybe. I don't remember.

7 Q. So two-plus in the morning; is that correct?

8 A. I believe so.

9 Q. Phone?

10 A. And I'm not really sure if it was the morning or
11 early afternoon. It was sometime that day.

12 Q. And then how many phone conversations at 5:30 to
13 6:00?

14 A. I think it was just one long one, long
15 conversation.

16 Q. One long conversation. What is "long" to you?

17 A. I know some of our conversations would last maybe
18 like 45 minutes to an hour. I don't know.

19 Q. That would be long?

20 A. Long.

21 Q. So do you think this is a 45 minute to an hour
22 long conversation?

23 A. No.

24 Q. What do you think it is?

25 A. Maybe less than 30 minutes.

1 Q. So a long conversation, less than 30 minutes; is
2 that correct?

3 A. Yes.

4 Q. And is this the last contact you had with
5 Mechelle on the day she was murdered?

6 A. Yes.

7 Q. Do you recall Facebooking with her at all on that
8 day?

9 A. Yes.

10 Q. Okay. So that wouldn't be the last conversation
11 you had with Mechelle, or contact?

12 A. Well, we have Facebook contact in the morning.

13 Q. In the morning.

14 A. Prior to about 5:30 to 6:30.

15 Q. So all this is phone, correct?

16 A. 9:24 a.m.

17 Q. What time is the first Facebook conversation with
18 Mechelle on Sunday?

19 A. It shows 9:24 a.m.

20 Q. Does that ring true to -- other than what it
21 shows, because it's really about your memory. You're
22 not supposed to read off documents. Okay. Just look at
23 it and think does that help me remember?

24 A. Okay.

25 Q. Does that sound right to you?

1 A. Yes.

2 Q. That at about 9:24 a.m. there was a message.
3 What about -- was there just one message about Facebook
4 on the day she was killed?

5 A. I can count like I've done before. It looks like
6 one that I see here. I don't know if there was more on
7 not, but I just see one here.

8 Q. Do you recall Facebooking Mechelle at 9:10 in the
9 evening that she was killed?

10 A. Yes.

11 Q. Okay. Now, that would be another contact then on
12 Facebook, correct?

13 A. Yes.

14 Q. And that's nothing that you told these jurors
15 about when you testified?

16 A. Not yet.

17 Q. Until right now?

18 A. Until right now.

19 Q. And that's nothing that you ever told the police
20 about whenever you talked to them?

21 A. Yes, I did.

22 Q. Okay. Well, we'll go over that.

23 So what time was it that you Facebooked her
24 on the night that she was killed?

25 A. Around 9:00 p.m.

1 Q. So you think that you had two messages, one at
2 9:24 a.m. and one at 9:00, basically, p.m.?

3 A. Yes, I i-messed her.

4 Q. You i-messed her about 9:00 p.m. on the night
5 that she's killed; is that correct?

6 A. Yes.

7 Q. Okay. Is this, what we have just listed out, the
8 sum total of your contacts and conversations between you
9 and Mechelle Gandy?

10 A. Yes.

11 Q. Do you think that we have missed any of them?

12 A. No.

13 Q. Okay. You did not like Mechelle Gandy; is that
14 fair to say?

15 A. I don't think that's fair to say.

16 Q. Mechelle Gandy had had an affair with the man you
17 loved; is that true?

18 A. Yes.

19 Q. And you did not like her because she had had an
20 affair with the man you loved?

21 A. I didn't like her at the beginning when I didn't
22 know anything at all.

23 Q. You believed that Mechelle Gandy had destroyed
24 your home; is that correct?

25 A. Yes.

1 Q. And you believed that she had destroyed what you
2 and Thomas had built as a family together?

3 A. Yes.

4 Q. And you actually believed that Mechelle Gandy in
5 all of these telephone -- or all these telephone and
6 Facebook conversations was playing you to get your man?

7 A. At times I felt that way.

8 Q. You felt like she was coming on strong to you,
9 being nice, to separate you from Thomas so she could
10 jump back in the seat and get him?

11 A. Sometimes I felt that way.

12 Q. And so it's safe to say you did not trust
13 Mechelle Gandy?

14 A. No.

15 Q. It's safe to say you did not like her?

16 A. I didn't like her at first.

17 Q. But you did -- you never trusted her?

18 A. No, I didn't fully trust her.

19 Q. And you certainly would never have trusted her to
20 be alone with your man?

21 A. No.

22 Q. Because you believed that she would have been
23 trying to basically get back with him?

24 A. Yes.

25 Q. After all of this happened -- what -- where were

1 you on the night that Mechelle was killed?

2 A. I was at home.

3 Q. And you were at home in Grapevine?

4 A. Yes.

5 Q. And you were at home in Grapevine with your
6 father?

7 A. My father and children.

8 Q. And your children. You received some telephone
9 phone calls from the police?

10 A. Yes.

11 Q. And you did not answer those phone calls?

12 A. No, not -- no.

13 Q. They left voice -- they left messages on your
14 machine?

15 A. Voicemails, yes.

16 Q. And when you heard those messages, it wasn't
17 until 6:00 a.m. that you actually called the police
18 back?

19 A. Correct.

20 Q. Or did the police call you?

21 A. I called them back.

22 Q. And when you talked to the police, you were
23 hysterical?

24 A. Yes.

25 Q. And yet they had not told you what had happened

1 or that anything had happened?

2 A. Correct.

3 Q. But yet you were hysterical, correct?

4 A. Well --

5 Q. Correct?

6 A. -- they didn't tell me at first. Like they told
7 me later in conversation that -- well, they had
8 mentioned that Mechelle had been murdered, but they
9 didn't tell me further than that.

10 Q. So it's your testimony today that the police call
11 you on the telephone and told you that Mechelle Gandy
12 was murdered?

13 A. Yes.

14 Q. And that's what you remember and that's why you
15 were hysterical?

16 A. Yes.

17 Q. Is it your testimony that you were never
18 hysterical prior to them telling you anything about why
19 they were even calling?

20 A. I was worried. When I checked the voicemail, I
21 knew something obviously had gone wrong, otherwise the
22 police wouldn't have called me in the first place.

23 Q. So when you -- basically when you pick up the
24 phone, you're hysterical because you figure the police
25 are calling and it's got to be bad, whatever it is?

1 A. Yes.

2 Q. And is that part of -- during that time period --
3 and I don't mean to be prying, okay, but during that
4 time period you were on medication?

5 A. Yes.

6 Q. And you were under the care of a psychiatrist?

7 A. Yes.

8 Q. What sort of medications were you on?

9 A. I don't remember. I believe one was an
10 antidepressant and anti-anxiety.

11 Q. Nothing more than that?

12 A. Not that I can recall.

13 Q. Have you ever had a diagnosis of -- because
14 you're hearing voices or anything like that?

15 A. No.

16 Q. It's always just been the bipolar?

17 A. And posttraumatic stress.

18 Q. And posttraumatic stress?

19 A. Yes.

20 Q. And the posttraumatic stress, are you seeing
21 things or hearing things at all?

22 A. Not really. I think I would get side effects on
23 the medication and I would -- sometimes I would maybe
24 see something and I would tell my doctor, like I think
25 I'm kind of -- these medications are not doing well with

1 me. Can we please switch them? So I'd gets physical
2 and mental side -- bad side effects from my medications
3 and I would constantly ask my doctor to change them
4 because I didn't like any of them.

5 Q. And you're not on any now?

6 A. No.

7 Q. Are you still seeing a psychiatrist now?

8 A. No, I'm going to counseling.

9 Q. A psychologist?

10 A. No, a certified counselor.

11 Q. And that's all I really am allowed to get into.
12 That's all I need to get into. Okay?

13 Because back then you're hysterical when
14 you're talking to the police?

15 A. Yes.

16 Q. And you're so hysterical that you -- they
17 continue to talk to you before they arrived at your
18 house?

19 A. Yes.

20 Q. And so about how long do you think you talked to
21 the police before all of a sudden there's police
22 officers outside?

23 A. I don't remember.

24 Q. And whenever the police came and talked to you
25 when you were at home, where did you go then, did you

1 stay at home?

2 A. I stayed at home until eventually I went and
3 talked to the Arlington detective.

4 Q. And we'll go over that. Okay.

5 So you stayed at home, the police came out
6 there, they talked to you, you stayed at home, correct?

7 A. Yes.

8 Q. Did the police ever confront you about where you
9 were that night?

10 A. Yes.

11 Q. And when was that?

12 A. When I went to go talk to the Arlington police
13 later that morning.

14 Q. And was that with a female detective?

15 A. Yes.

16 Q. Did they ever ask you to give your DNA to them?

17 A. No.

18 Q. Ever take a swab from you?

19 A. No.

20 Q. Did they ever ask to take any pictures of you?

21 A. No.

22 Q. Did they ever ask you for your cell phone that
23 you say was broken?

24 A. I don't remember.

25 Q. Did they ask you for consent to search your

1 father's house?

2 A. I don't remember.

3 Q. Did they ever ask you to give the clothes that
4 you had on that night to them?

5 A. No.

6 Q. In fact, when you went and saw and talked to
7 them, do you recall having on a black sweatshirt?

8 A. Yes. I think I was wearing a black hoodie and
9 jeans.

10 Q. And wearing a black hoodie does not make a
11 person a killer, does it?

12 A. No.

13 Q. But the police saw you in a black hoodie the next
14 day and they never asked for you to produce or give them
15 that black hoodie, correct?

16 A. No.

17 Q. They talked to you, you were also hysterical when
18 you went down to talk to the police again; is that
19 correct?

20 A. I don't understand that.

21 Q. We're going to go over that.

22 But whenever you went down and talked to the
23 police --

24 A. Uh-huh.

25 Q. -- you were upset?

1 A. Yes.

2 Q. And crying?

3 A. Yes.

4 Q. To the point that you're hysterical or just
5 crying?

6 A. Just crying.

7 Q. Was your father home all night?

8 A. Yes.

9 Q. And did you leave your children with your father
10 whenever you went down to talk to the police?

11 A. No. They were in school.

12 Q. So in the morning you took your children to
13 school and then went and talked to the police?

14 A. Yes -- well, I didn't take -- well, yes, I took
15 the children to school early that morning.

16 Q. You did not believe that Thomas was ever
17 suicidal, did you?

18 A. No.

19 Q. You believed that he was playing you?

20 A. Yes.

21 Q. To basically get sympathy to -- for you to
22 forgive him for being a cheater?

23 A. Yes.

24 Q. I mean, summing it up, correct?

25 A. Yes.

1 Q. He told you that he'd taken some of your
2 medication?

3 A. Yes.

4 Q. But when you looked at your medication, you were
5 not missing any?

6 A. No.

7 Q. You believe that Thomas -- looking back today,
8 you believe that Thomas was cheating on you with a lot
9 of different women?

10 A. Yes.

11 Q. Not with just Mechelle?

12 A. Correct.

13 Q. But during that time period, this was the only
14 woman that you knew about?

15 A. I had suspicions of other women, so no.

16 Q. So you thought maybe other women, correct?

17 A. Yes.

18 Q. But certainly no other person had built a wedge
19 in between you and Thomas like Mechelle had?

20 A. Correct.

21 Q. And certainly no other woman had built a wedge to
22 where you actually got kicked out of your house?

23 A. Correct.

24 Q. After this, you and -- you began to have a long
25 conversation with Thomas, correct?

1 A. After when?

2 Q. Mechelle's murder.

3 A. Yes.

4 Q. And within -- how long is it that you get a -- be
5 back within his graces from being kicked out to being
6 part of his life again?

7 A. I started seeing him in person again in July or
8 August.

9 Q. And do you know that in August, did he ever go to
10 Virginia to your knowledge?

11 A. No, I have no idea.

12 Q. But when you began to start seeing him again in
13 July, it wasn't just him getting to see his daughter,
14 was it?

15 A. No.

16 Q. I mean, you getting to see Thomas, too?

17 A. Yes.

18 Q. No matter what you feel today, back then you
19 loved him very much?

20 A. Yes, I did.

21 Q. This was a person who had come into your life and
22 been in your life five years?

23 A. Yes.

24 Q. And it's safe to say, as far as men go, the most
25 stable that you had had up to that point?

1 A. Yes.

2 Q. And you had had a prior dude, or whatever, guy,
3 who was not stable at all, in which you had your little
4 boy with?

5 A. Can you rephrase that?

6 Q. Absolutely. You're little boy is not Thomas'
7 little boy?

8 A. No.

9 Q. But Thomas has always acted as if that was his
10 little boy?

11 A. Yes.

12 Q. The father of the little boy was not in the
13 little boy's life?

14 A. That's incorrect.

15 Q. Was the father of the little boy in his life?
16 Yes?

17 A. He was in his life, yes.

18 Q. Was he a person that was a stable person or not a
19 stable person?

20 A. I'm really not quite sure what your definition of
21 stable or instable is.

22 Q. I mean --

23 MR. ROUSSEAU: Object, Your Honor. Can we
24 approach just a moment?

25 MS. KEENE: I can go forward, Judge. I

1 don't need to keep going there.

2 THE COURT: Are you leaving that subject
3 matter and moving on?

4 MS. KEENE: I can leave the subject matter.

5 THE COURT: Then you may do so.

6 Q. (BY MS. KEENE) Because the bottom line is,
7 Thomas was a person who acted like a father to your
8 little boy?

9 A. Yes.

10 Q. And in your mind loved him?

11 A. Yes.

12 Q. And certainly the two of y'all now had a daughter
13 together?

14 A. Yes.

15 Q. And so this was a person that you loved?

16 A. Yes.

17 Q. And this was a person that you wanted to get
18 married and have a long-term life commitment with?

19 A. Yes.

20 Q. This was a person that you wanted to give you a
21 ring and say, Will you marry me, Rebeca --

22 A. Yes.

23 Q. -- correct?

24 A. Yes.

25 Q. And so what stopped all of that was a person by

1 the name of Mechelle Gandy?

2 A. Not necessarily.

3 Q. Well, you'd never been kicked out of the house,
4 had you?

5 A. No.

6 Q. And -- but yet when all this was done, by about
7 July, you get him back, correct?

8 A. I wouldn't say that I got him back.

9 Q. Well, what -- how would you describe it? He got
10 you back?

11 A. I wouldn't describe it that anyone got anyone
12 back. I was confused and didn't really know what to do
13 and I didn't want to upset him more, but I also wanted
14 to believe that he had nothing to do with Mechelle and
15 Asher's deaths.

16 Q. And so you begin to have a sexual relationship
17 with him; is that correct?

18 A. I did.

19 Q. And he moved his apartment from a two-bedroom
20 apartment, when he lived with you, he went and got a
21 one-bedroom apartment when this was over because he was
22 free, correct, you guys weren't coming back?

23 A. Yes.

24 Q. Not in his mind, at least, correct?

25 A. Correct.

1 Q. But yet then once you, by about July, start
2 coming into his life, he gave you a key to that
3 apartment, didn't he?

4 A. Yes.

5 Q. And so you began to then see him on a regular
6 basis for things other than just "let's see my
7 daughter," is that correct?

8 A. No.

9 Q. You began to see him sexually?

10 A. I saw him sexually, but not regularly.

11 Q. He did not move you back into that apartment, did
12 he?

13 A. No.

14 Q. In fact, did you have any suspicion that during
15 this same time period that you were now going to see him
16 that he was still basically being a gigolo?

17 A. Can you repeat that, please?

18 Q. Did you have any belief or do you know or do --
19 at that time period do you have any belief that even
20 while seeing you he was being a gigolo out there?

21 A. I wasn't sure.

22 Q. You weren't sure if he was ever being faithful?

23 A. Exactly.

24 Q. And not having the confidence in someone being
25 faithful will ultimately destroy a relationship, won't

1 it?

2 A. Yes.

3 Q. And so y'all's relationship ultimately got
4 finished?

5 A. Yes.

6 Q. And that was probably by about October?

7 A. Yes, in October.

8 Q. And then there's no more relationship between the
9 two of y'all?

10 A. Correct.

11 Q. Basically; is that correct?

12 A. Correct.

13 Q. You testified that Thomas, when you were talking
14 to him, that he said to you at some point -- I didn't
15 write down the date -- but he said, "That fucking baby
16 is a devil's child," is that correct?

17 A. Yes.

18 Q. Do you recall ever telling the police that he
19 said that?

20 A. Yes.

21 Q. Do you believe you told them that on the -- on
22 what occasion?

23 MS. KEENE: Judge, may I approach the board?

24 THE COURT: Yes.

25 THE WITNESS: Probably the next -- that --

1 on March 20th, that morning when I went into the
2 Arlington Police Department.

3 Q. (BY MS. KEENE) Okay. How many times have you
4 talked to the police about this case?

5 A. I don't remember.

6 MS. KEENE: Does anyone have a black marker?

7 THE COURT: Are we out of ink?

8 MS. KEENE: Well, no, I left the top off.

9 (Pause in proceedings)

10 Q. (BY MS. KEENE) All right. Attempts to say,
11 "Rebeca. Police conversations." "Conversations" got
12 messed up.

13 A. Okay.

14 Q. Does that kind of look like that?

15 A. Yes.

16 Q. Okay. I need to steal my book back for some
17 dates.

18 A. Sure.

19 Q. Okay?

20 A. Uh-huh.

21 Q. On March the 20th is the first contact you had
22 with the police; is that correct?

23 A. Yes.

24 Q. Actually it was March 21st, that morning?

25 A. Yes. Yes.

1 Q. And about what time was that?

2 A. I don't remember.

3 Q. What time you called the police back?

4 A. What time I called them back, was around 6:30,
5 6:00, 6:30.

6 Q. And that was when --

7 A. a.m.

8 Q. And that was the time period that you were
9 hysterical and it was on the phone?

10 A. Yes.

11 Q. So we'll put "phone" and "hysterical". Is that
12 okay to put that?

13 A. Yes.

14 Q. At 6:30 a.m. And then later that day at about --
15 actually, did you ever talk to Detective Stewart that
16 day?

17 A. No.

18 Q. On the telephone, the 21st?

19 A. I don't believe so. I just remember, really,
20 talking to Detective Wade.

21 Q. Detective Wade is the first time you talked to
22 any detective?

23 A. Yes.

24 Q. And is that about --

25 A. I believe so.

1 Q. About what time is that?

2 A. I don't remember.

3 Q. Is that about 8:49 a.m.?

4 A. I don't remember. I just remember it being in
5 the morning.

6 Q. All right. So in the morning you talked for
7 about an hour with Detective Wade?

8 A. I don't remember how long I talked to her.

9 Q. But was the conversation recorded?

10 A. Yes.

11 Q. On video?

12 A. Yes.

13 Q. Okay. Video recording, Detective Wade, correct?

14 A. Yes.

15 Q. No conversation with Detective Stewart at all on
16 the 22nd -- on 21st?

17 A. I don't remember for sure, but I don't think so.

18 Q. And you know who I'm talking about when I say
19 Detective Stewart, correct?

20 A. Yes.

21 Q. Okay. When is the next conversation you have
22 with the police?

23 A. I don't remember.

24 Q. Do you recall going down again on April the 13th
25 and meeting with a Detective Alley?

1 A. Yes.

2 Q. And did you give a statement whenever you met
3 with Detective Alley?

4 A. I don't remember.

5 Q. But certainly you provided her with -- by the
6 13th you provided her with all of your Facebook
7 conversations with Mechelle?

8 A. Yes.

9 Q. Did you provide her with all your Facebook
10 conversations with Thomas, as well?

11 A. Yes.

12 Q. Did you provide her with anything else on the
13 13th, other than basic Facebook? Did you give her the
14 court papers that Mechelle had given you?

15 A. Yes. And I believe that's also the time I gave
16 the invitation to them.

17 Q. So you gave the invitation, which is State's
18 Exhibit No. 231, and then the court papers you think,
19 too?

20 A. I believe so.

21 Q. Gave Facebook between yourself and Mechelle
22 Gandy, correct?

23 A. Yes.

24 Q. And also between yourself and Thomas Olivas; is
25 that correct?

1 A. Yes.

2 Q. And then, also, the court papers that Mechelle
3 had delivered to your house and the baby -- invitation,
4 birthday party invitation?

5 A. Yes.

6 Q. After the 13th -- you don't think you gave a
7 statement on that day; is that correct?

8 A. That's correct.

9 Q. And then on November the 17th, 2011, you met with
10 the police again and gave another statement?

11 A. I don't remember.

12 Q. Do you remember meeting with them in --
13 November 17th, 2011?

14 A. No, I don't remember.

15 Q. Okay. If you looked at something that purports
16 to be a statement, look at that, don't read it, just --

17 MR. ROUSSEAU: Your Honor, may I see what
18 she's looking at?

19 THE COURT: Sure.

20 Q. (BY MS. KEENE) And see if that helps reflects
21 your memory about meeting with the police or giving them
22 a statement.

23 THE COURT: You want her to reflect her
24 memory or refresh it?

25 MS. KEENE: Refresh.

1 THE COURT: All right.

2 MS. KEENE: Reflect it...

3 THE COURT: Do you want her to read the
4 whole thing?

5 MS. KEENE: Just to see if it refreshes your
6 memory.

7 THE COURT: Do you want her to read the
8 whole thing to see if the whole thing refreshes her
9 memory or any particular part?

10 MS. KEENE: Just her meeting with the
11 police, if that helps her remember doing that in --

12 THE COURT: I just asked do you want her to
13 read whole thing through and see what it refreshes or is
14 there any particular part?

15 MS. KEENE: Just if she remembers giving a
16 statement in November.

17 THE COURT: To the question of looking at
18 that, does that help you remember giving a statement?

19 THE WITNESS: Yes.

20 THE COURT: All right.

21 Q. (BY MS. KEENE) Did you meet with the police
22 again after April 13th and give another statement?

23 A. Yes.

24 Q. And when was that?

25 A. November 17th.

1 Q. Of 2011?

2 A. Yes.

3 Q. And that's another statement you gave?

4 A. Yes.

5 Q. And this time it was actually a written
6 statement --

7 A. Yes.

8 Q. -- is that correct?

9 Do you remember who you met with or gave
10 that written statement to?

11 A. Detective Stewart.

12 Q. And that's Detective Stewart?

13 A. Yes.

14 Q. Is that the first time that you had met with
15 Detective Stewart in November of 2011?

16 A. I don't remember.

17 Q. Is that the last time that you gave any
18 statements in regards to this case?

19 Do I have them all?

20 A. I don't remember.

21 Q. March, April and November; is that correct?

22 A. Those are correct.

23 Q. You don't remember if you've given more
24 statements than at least two, if not three?

25 A. Correct.

1 Q. You don't remember?

2 A. I'm not really sure -- when you say statement,
3 what, do you mean like -- can you really tell me what
4 statement?

5 Q. Going down to the police department and
6 talking --

7 A. Uh-huh.

8 Q. -- to them about the events of March the 20th of
9 2011.

10 A. I know I would e-mail Detective Stewart once in a
11 while to -- if something popped in my head that maybe
12 would have been of help.

13 Q. Okay. So you believe you had e-mails with
14 Detective Stewart?

15 A. Excuse me?

16 Q. You do believe you had had e-mails with Detective
17 Stewart?

18 A. Yes.

19 Q. How many e-mails do you think?

20 A. I don't know. I don't remember.

21 Q. More than one?

22 A. Yes.

23 Q. More than two?

24 A. I think so.

25 Q. More than five?

1 A. Yes.

2 Q. More than ten?

3 A. I don't remember.

4 Q. Between five and ten e-mails?

5 A. I don't remember.

6 Q. Between five and eight?

7 A. I don't remember.

8 Q. Just more than five?

9 A. Just -- yes.

10 Q. Okay. And then a date unknown -- dates unknown,
11 or do you know the dates?

12 A. I don't know the dates.

13 Q. Five times, dates unknown; is that correct?

14 A. Yes.

15 Q. But it's -- you believe it's within this same
16 time period in 2011?

17 A. I really not sure of the time period.

18 Q. Are you e-mailing him like yesterday?

19 A. No.

20 Q. Are you e-mailing him in 2014?

21 A. I don't remember.

22 Q. But it's your testimony that in which one of
23 these statements now that you told the police that
24 Thomas said that fucking baby is a devil child?

25 A. Yes.

1 Q. Which one?

2 A. That was like in March, like right at the
3 beginning.

4 Q. So it's your testimony that to Detective Wade,
5 you told Detective Wade that Thomas called the child a
6 devil child?

7 A. I believe so.

8 Q. In which one of these statements did you tell the
9 detective that Thomas said, "Why are you talking to that
10 bulldog," or did you ever tell the police that?

11 A. Yes, I did.

12 Q. When did you tell the police that?

13 A. I don't remember.

14 Q. When did you tell the police -- did you ever tell
15 Detective Wade that you had a conversation with Thomas
16 on the phone in which Mechelle had come out to Best Buy
17 and Thomas said, "That bitch is here, I fucking hate
18 her"?

19 A. Yes.

20 Q. Do you recall telling the jury that?

21 A. Yes.

22 Q. Okay. Did you tell Detective Wade that in March?

23 A. I know I told one of the detective -- the
24 detectives at some point, and I believe it to be in
25 March.

1 Q. Do you recall telling any of the police officers
2 that you told Thomas "I will kill that bitch"?

3 A. Can you repeat that?

4 Q. All right. Whenever you found out that this
5 woman who is having sex with your man shows up now at
6 his work, Best Buy, right?

7 A. Uh-huh.

8 Q. And is that a confirmation to you that she is
9 truly harassing him?

10 A. Somewhat, yes.

11 Q. In other words, you're hearing that he's cheating
12 on her, maybe she's unstable, you don't quite know, but
13 now Thomas is calling you and saying she's here at my
14 work --

15 A. Yes.

16 Q. -- correct?

17 And that upset you?

18 A. Yes.

19 Q. And you said that Thomas said, "That bitch is
20 here, I fucking hate her," is that correct?

21 A. Yes.

22 Q. And you're saying that you told some detective
23 along the way or a police officer those words?

24 A. Yes.

25 Q. I'm asking you did you tell Thomas at that time

1 period, "I will kill that bitch"?

2 A. No.

3 Q. Did you ever feel that way at that time period?

4 A. No. I wanted them to take care of it, what they
5 needed to take care of in court.

6 Q. But yet you get on Facebook and then you begin to
7 do the "what for" at that same time period with
8 Mechelle?

9 A. Yes. But I never threatened Mechelle.

10 Q. I didn't ask you that. I'm saying did you tell
11 Thomas, "I will kill that bitch," when you just heard
12 that she's up there, not whether or not --

13 A. No, I --

14 Q. -- you would literally --

15 A. -- did not tell Thomas that.

16 Q. Did you ever tell the police -- well, strike
17 that.

18 Did you ever tell the police that Thomas
19 told you, "That fucking bulldog, why are you talking to
20 her," about those words?

21 A. Did I tell the police that?

22 Q. Yeah.

23 A. Yes.

24 Q. Do you recall which one of the police officers
25 you told that?

1 A. No, I don't.

2 Q. Did you ever tell the police that whenever --
3 about your cell phone being thrown, that he looked at
4 you mean and evil, whenever he threw the cell phone?

5 A. Yes.

6 Q. Which police did you tell that to?

7 A. I don't remember. I believe it to be Detective
8 Wade, but...

9 Q. You stated that he posted -- that Thomas posted
10 something on Facebook on March the 20th?

11 A. Yes.

12 Q. Do you recall what time that he did that post?

13 A. I don't recall the time.

14 Q. Do you recall what time you saw the post?

15 A. It's anywhere from possibly 10:00 at night to
16 3:00 in the morning. I don't remember.

17 Q. So somewhere between 10:00 p.m. and 3:00 a.m. you
18 were someplace where you could see a Facebook post of
19 Thomas' about a song?

20 A. Yes.

21 Q. And do you feel like you saw it right after he
22 posted it or significantly later? What do you feel
23 like?

24 A. More towards right after.

25 Q. So were you able to check your Facebook on a

1 phone?

2 A. No.

3 Q. So what you're telling the jurors is you were
4 sitting at your computer screen between 10:00 p.m. and
5 3:00 a.m.?

6 A. At a laptop, yes.

7 Q. So that you were on your laptop between 10:00
8 a.m. -- 10:00 p.m. and 3:00 a.m.?

9 A. Yes.

10 Q. And did the police ever get ahold of your laptop
11 to look at it?

12 A. No.

13 Q. Did the police ever ask to see your laptop so
14 they could look at it and determine different things
15 that they can determine from laptops?

16 A. No.

17 Q. Did you ever describe Mechelle Gandy as
18 aggressive?

19 A. Sometimes, yes.

20 Q. And a person who would not back down?

21 A. No, she wouldn't.

22 Q. You testified earlier about Thomas getting a
23 text -- about you asking him about a text he got from
24 Mechelle in which it said, "Call me for directions to
25 the house"?

1 A. Yes.

2 Q. On March the 20th, correct?

3 A. Yes.

4 Q. So on the day she's killed you ask him about,
5 Hey, you got a text from Mechelle that said call me for
6 directions to her house; is that right?

7 A. I don't -- I think it was a different day when I
8 talked to him about that through Facebook.

9 Q. But you were certainly talking about March 20th?

10 A. We were talking about March 20th, yes.

11 Q. And you were asking him about why he didn't stay
12 on her to get the direction to her house?

13 A. Yeah.

14 Q. Basically, correct?

15 A. Yes.

16 Q. You certainly never said, Dude, you know where
17 she lived, anything like that, correct?

18 A. I believe that's correct.

19 Q. This whole pool incident that you said happened
20 in August of 2011; is that correct?

21 A. Yes.

22 Q. "Make her stop screaming"?

23 A. Yes.

24 Q. Did you ever tell the police about that in -- I
25 guess it would be November or e-mail Detective Stewart

1 about that incident?

2 A. I don't remember. I may have. I don't remember.

3 Q. Well, it upset you a lot here on the -- when you
4 testified in front of the jury, correct?

5 A. What upsets me?

6 Q. This whole conversation about the pool and about
7 Thomas saying, "Make her stop screaming"?

8 A. Yes.

9 Q. And so if it upset you in 2014, you certainly
10 would have told the police in November of 2011 about
11 this conversation?

12 A. Most likely.

13 MS. KEENE: Okay. Judge, may I approach the
14 witness?

15 THE WITNESS: I just don't remember.

16 THE COURT: Yes, you may approach the
17 witness.

18 MS. KEENE: And, Judge, it may be a good
19 time for a lunch break and I can have her read this
20 while we're all gone to lunch and then ask her the
21 questions afterwards.

22 THE COURT: That will be fine. You're going
23 to have to do that anyway?

24 MS. KEENE: Exactly.

25 THE COURT: That will be perfect.

1 All right. Then it's 12:45. Be at your
2 pickup point at, say, 2:00, 2:05. Sheriff will be down
3 there waiting for you at 2:00, and try to be there by
4 2:05 and we'll pick up as soon as you get refreshed when
5 you get back upstairs. Remember your instructions.

6 Everybody, else we won't resume before 2:10.

7 (Lunch break 12:45 - 2:00 p.m.)

8 (OPEN COURT, DEFENDANT AND JURY PRESENT)

9 (Witness on the stand)

10 THE COURT: On the record.

11 Everyone eat?

12 SEVERAL JURY MEMBERS: Yes.

13 THE COURT: Everyone ready to resume?

14 SEVERAL JURY MEMBERS: Yes.

15 THE COURT: All right. Parties have already
16 told me the same.

17 Still your witness.

18 MS. KEENE: Thank you, Judge.

19 Q. (BY MS. KEENE) Rebeca, did you have an
20 opportunity to look at your statement dated November of
21 2011?

22 A. Yes.

23 Q. Over the break?

24 A. Yes.

25 Q. And did you tell the police in your written

1 statement anything about this pool incident, which you
2 testified to in front of the jury?

3 A. No.

4 Q. And that would have been closer to the time
5 period of the pool incident certainly than when you
6 testified here today, correct?

7 A. Yes.

8 Q. Do you have any idea, or can you explain to the
9 jurors, why you would find that so significant and
10 emotional today but not significant enough to tell the
11 police about in November of 2011, if you have an answer
12 to that?

13 A. Well, I'm really not sure if I did tell them or
14 not. It wasn't in the written statement. It may have
15 been through e-mail or not.

16 Q. All right. So is it your testimony that you may
17 have told them and it would have been through e-mail and
18 it certainly was not in a written statement?

19 A. It certainly wasn't written in the written
20 statement.

21 Q. And do you recall an incident at the Truluck's
22 with Mechelle?

23 A. Yes.

24 Q. And was that where Mechelle basically went up to
25 Truluck's where Thomas was working?

1 A. Yes.

2 Q. The same kind of idea that happened at the Best
3 Buy?

4 A. Yes.

5 Q. Did that happen prior to or after the Best Buy
6 incident?

7 A. I believe prior to.

8 Q. And did you also confront her or talk to her
9 about that incident?

10 A. Yes.

11 Q. Did you do that by e-mail, through Facebook, by
12 telephone conversation or how?

13 A. I believe through the telephone.

14 Q. And how much before the Best Buy incident was the
15 Truluck's incident?

16 A. I don't remember.

17 Q. Well, was it months before, years before?

18 A. I don't remember.

19 Q. You don't remember if it was within a month of
20 her death or within a year of her death?

21 A. I don't remember.

22 Q. Was it a time period that you did not like her?

23 A. No.

24 Q. So you think it -- does that help you at all to
25 narrow down the time period of when this was?

1 A. Some -- somewhat.

2 Q. And so what time period do you think the
3 Truluck's incident was?

4 A. I really don't know.

5 Q. Okay. You recall ever being at your house and
6 having any constable or person that looked like they had
7 authority come there with paperwork and say, "We're here
8 to serve papers," or anything like that?

9 A. At my dad's house or...

10 Q. At the house with Thomas.

11 A. Well, we lived at my dad's house and we lived in
12 an apartment together, so I'm not sure which one
13 you're --

14 Q. Well --

15 A. -- asking about.

16 Q. -- let's start with the apartment. Okay. For
17 the past six months, six months prior to Mechelle's
18 death, you and Thomas lived in a two-bedroom apartment,
19 correct?

20 A. Yes.

21 Q. And during that time period did a constable ever
22 show up and try to serve papers, that you recall?

23 A. No.

24 Q. Thomas worked at Best Buy, correct?

25 A. Yes.

1 Q. Thomas worked at Truluck's, correct?

2 A. Yes.

3 Q. And Thomas was in the Air Force as a reserve
4 officer -- or not officer, reserve person, correct?

5 A. Yes.

6 Q. And did you work?

7 A. No.

8 Q. You had two babies, you worked at home, correct?

9 A. Yes.

10 Q. But your babies went on to school during the day,
11 correct?

12 A. Yes.

13 Q. Either daycare or school?

14 A. When Rya was an infant/infant, I had her with me,
15 but then she started preschool when she was about three.

16 Q. And so that would have been in that six-month
17 time period I'm talking about. Rya was going to school,
18 Thomas was going to work and you would have been at home
19 or yoga, or whatever you were, correct?

20 A. Yes.

21 Q. And during that time period no constable ever
22 came to your house at the apartment complex saying we're
23 looking for Thomas, here's papers?

24 A. No.

25 Q. And that was one of your big concerns about

1 dealing with Mechelle and your mistrust was if you're
2 acting like my man has had your baby or, you know, that
3 your baby is my man's, I'm not seeing no papers, no
4 constable's rolling around our house, correct?

5 A. No constable came around, no.

6 Q. Nobody coming around with these papers, correct?

7 A. No. But some papers came through the mail.

8 Q. To where?

9 A. To our apartment.

10 Q. And when did the papers come in -- by mail to
11 your apartment?

12 A. On and off, I mean -- well, not off, but they
13 came -- seems like once a month or once every -- I don't
14 really know the timeframe, but I remember seeing some
15 papers.

16 Q. These were not the same type of papers that
17 Mechelle delivered to your father's mailbox, were they?

18 A. I don't remember.

19 Q. These were papers about actually Mechelle missing
20 the meeting, when you talked to her about that?

21 A. Yes. A couple of them were, both of them missing
22 their court dates.

23 Q. So basically there was -- what you understood,
24 was there was some going back and forth, both of them
25 missing some dates to go talk to whoever it is they're

1 supposed to talk to about paternity?

2 A. Yes.

3 Q. And then there was this official paperwork that
4 Mechelle brought and put in your dad's mailbox, correct?

5 A. Yes.

6 Q. And that is different than the other paperwork
7 that was coming in the mail, if you recall?

8 A. I don't remember. All of it was very
9 similar-looking.

10 Q. Well, did it all say it was against Mechelle
11 Gandy, like the paperwork that you saw in your father's
12 mailbox?

13 A. I don't remember. I mean it had both names on
14 there.

15 Q. You testified that you were -- on the day that
16 Mechelle was killed, that you were up from 10:00 p.m.
17 until 3:00 a.m., correct, on your computer?

18 A. I wasn't up the whole time. I think I got up
19 just to see if he had posted anything. But I slept on
20 and off. I would wake up, go to sleep, my daughter
21 would come in and wake me up because she didn't like to
22 sleep alone anymore and I tried to -- I also tried to
23 take her back to bed. So a lot of things kind of kept
24 me up that night. And -- but I would see, check online
25 to see if he had posted anything, or...

1 Q. And this is the night at 9:10, you -- since your
2 last Facebook contact to a woman who ultimately is
3 killed about that time; is that correct?

4 A. Yes.

5 Q. And then you're telling this jury that from
6 basically right after that until 3:00 a.m. you're waking
7 up to go look at your computer to see if Thomas has
8 posted something on Facebook?

9 A. Yes.

10 Q. Okay. And that's when you saw a post about a
11 song?

12 A. Yes.

13 Q. Did you give that Facebook or any of that to the
14 police whenever you took the court papers, the baby
15 invitation, the birthday invitation?

16 A. I don't remember exactly when I gave it to them,
17 but I did give it to them.

18 Q. You believe you gave them all of those things?

19 A. Yes.

20 Q. What officer do you believe you gave them to?

21 A. I don't know. It was mainly -- my interaction
22 was mainly with Detective Wade, Investigator Alley and
23 Detective Stewart. Those are the main three people I
24 talked to.

25 Q. So Wade, Alley or Stewart should have Thomas

1 Olivas' Facebook post from the night that Mechelle was
2 killed?

3 A. I believe so.

4 Q. Why do you say "believe"?

5 A. Well, I can't answer for the -- them. I'm just
6 saying I know what I gave them.

7 Q. You know that you gave it to them as certain as
8 you know that you gave them the birthday invitation?

9 A. Yes.

10 Q. And as certain as you know that you sent e-mails
11 about all these other comments that you heard Thomas
12 say?

13 A. Comments?

14 Q. About the devil child. That's not in any of your
15 statements, that you sent that, I guess, in an e-mail?

16 MR. ROUSSEAU: Objection, Your Honor. It's
17 argumentative.

18 THE COURT: Well, she said -- she was
19 sort -- response -- she said comments, question mark, if
20 that meant "what comments?"

21 MR. ROUSSEAU: Actually, Your Honor, my
22 objection is that she referred to a comment regarding
23 devil child, which is not in any of her statements. She
24 was very specific.

25 THE COURT: Read it back.

1 MS. KEENE: I can clarify, Judge.

2 THE COURT: Well, read -- hold on.

3 Read back how Joetta phrased it.

4 Q. (BY MS. KEENE) You never told --

5 THE COURT: Hold it.

6 MS. KEENE: I'm sorry. I'm sorry.

7 THE REPORTER: "And as certain as you know
8 that you sent e-mails about all these other comments
9 that you heard Thomas say?"

10 "Comments?"

11 "About the devil child. That's not in any
12 of your statements, that you sent that, I guess, in an
13 e-mail?"

14 THE COURT: All right. You can ask the
15 statement did you say anything about devil child in an
16 e-mail. To that question, you can answer that.

17 THE WITNESS: Can you -- I'm sorry, can you
18 repeat it?

19 THE COURT: Did you ever send an e-mail
20 referring to "devil child" expression?

21 THE WITNESS: An e-mail to the detectives?

22 THE COURT: Yes.

23 I assume you meant to the detectives?

24 MS. KEENE: Yes, sir.

25 THE COURT: Yes.

1 THE WITNESS: I don't remember.

2 THE COURT: All right. Next question.

3 MS. KEENE: I'll pass the witness, Judge.

4 REDIRECT EXAMINATION

5 BY MR. ROUSSEAU:

6 Q. I need to ask you a few questions. Okay?

7 A. Yes.

8 Q. All right. First of all, I want to ask you about
9 your and Thomas' financial situation at the time that
10 all this was going on.

11 Would Thomas have been able to afford to pay
12 child support -- or let me ask it another way.

13 What effect would it have had on your and
14 Thomas' living situation if Thomas had suddenly been
15 forced to pay child support for Asher?

16 A. Well, it would have been financially very hard.

17 Q. Why is that?

18 A. Well, he was working two jobs and we were barely
19 making it ourselves.

20 Q. Okay. Did you ever -- did he ever say anything
21 to that effect?

22 A. Did he say anything?

23 Q. Yes, about that, about his ability to make child
24 support payments?

25 A. Yes, he did.

1 Q. What did he say?

2 A. He said that he basically wouldn't be able to
3 help out and...

4 Q. Did he say basically he would be?

5 A. He wouldn't.

6 Q. Okay.

7 A. He wouldn't be able to afford it, that we were
8 barely making it, and he was working two jobs. He would
9 get angry about it and say, "How the hell am I supposed
10 to pay for another child?"

11 Q. And you weren't earning a living outside of the
12 home at that time; is that correct?

13 A. That's correct.

14 Q. Were you receiving child support from your -- the
15 father of your son?

16 A. Yes.

17 Q. When the Defense Counsel asked you, Ms. Keene,
18 was asking you about service of -- I don't know if you
19 know this, but when someone -- when a constable is
20 trying to serve you papers, that's what we refer to as
21 service or process.

22 You were not aware of any attempts to serve
23 Thomas; is that correct?

24 A. That's correct.

25 Q. You're not -- are you saying there were no

1 attempts made or you just don't know of any?

2 A. I don't know of any.

3 Q. There was a question asked about your use of
4 Facebook on the night that Mechelle was killed. You
5 sent her a text, a Facebook message around ten after
6 9:00; is that correct?

7 A. Yes.

8 Q. Okay. Do you recall what the Facebook message
9 was?

10 A. Yes.

11 Q. What was it?

12 A. I asked her what happened, if she -- she's heard
13 anything.

14 Q. Why would you be sending her that message?

15 A. Because when we talked last around 5:30 --

16 MS. KEENE: Objection to hearsay, Judge.

17 MR. ROUSSEAU: Your Honor, I believe under
18 the rule of optional completeness we need to go into
19 this.

20 THE COURT: What's the date?

21 MR. ROUSSEAU: The date of -- it's the date
22 of the murders, Sunday, March 20th, 2011.

23 THE COURT: I'll allow limited inquiry under
24 106, 107.

25 Q. (BY MR. ROUSSEAU) So why were you curious? Why

1 did you need to send her that message?

2 A. Because around that time we actually spoke on the
3 phone, around 5:30, 6:30, you know, she was kind of in a
4 rush to go pick up Asher from her mom's and so she's
5 like, "Well, I'll let you know what happens," and I said
6 okay. And I hadn't heard from her, I hadn't heard from
7 her, I hadn't heard from her, so around 9:00 to 9:10, I
8 e-mailed her on Facebook and asked her, well --
9 something along the lines of have you heard anything or
10 is -- what's going on? Everything okay? Some -- it was
11 in a sentence. I don't really remember word for word
12 what I said, but I remember e-mailing her.

13 Q. What was it that you were curious about? Was
14 it -- was there a specific thing that you expected to
15 happen that night?

16 A. Not really. I -- because I was curious like,
17 wow, he's texting you, what's going on, what's happening
18 and why is he texting you --

19 Q. Okay.

20 A. -- type of thing.

21 Q. You had already -- you were already aware from
22 your conversation with her that he had been text -- that
23 text message -- he had been text messaging her; is that
24 correct?

25 A. Yes.

1 Q. There was -- you were asked about a series of
2 Facebook messages between yourself and Mechelle where
3 you were talking to her about her failure to follow
4 through with paternity testing at some point in time.
5 Do you recall that series of questioning from the
6 Defense Counsel?

7 A. Yes.

8 Q. All right. And did Mechelle provide you with an
9 explanation for why she had not followed through on at
10 least one occasion?

11 A. Yes.

12 Q. And what was that?

13 A. She said it wasn't her, that it was him, but one
14 of the times she did cancel one of the court meetings
15 because she had to go out of town, or something along
16 those lines. She had something going on.

17 Q. Was there ever a point where -- was the subject
18 of the Defendant being deployed overseas ever raised
19 between yourself and Mechelle in connection to this
20 paternity testing?

21 A. Yes.

22 Q. What was that all about?

23 MS. KEENE: Your Honor, I'm going to object
24 to hearsay. This is back into the motion.

25 THE COURT: Time/space continuum relative to

1 the conversations in evidence?

2 MR. ROUSSEAU: It would be during the --
3 probably during February, Your Honor, when she was
4 communicating with Mechelle regarding paternity testing
5 and why it hadn't taken place yet.

6 THE COURT: All right. Ms. Keene, why would
7 it not be a 106, 107 based on the dates and
8 conversations in evidence?

9 MS. KEENE: Because we didn't talk -- we
10 just didn't talk about any of what's he's going into
11 now. We didn't have any of those --

12 THE COURT: Well --

13 MS. KEENE: -- discussions.

14 We might want to take this up outside the
15 presence.

16 THE COURT: Well, you know, why don't y'all
17 come up here just real quick and then we'll decide if we
18 need to do that.

19 In fact, even quicker, jurors, why don't
20 y'all just run out a minute. I can handle this much
21 more quickly when I don't have to stay behind the little
22 curtain, the legal curtain, that makes me an umpire and
23 not a factfinder. So I'll get you back in here in just
24 a second.

25 (Jury excused from courtroom)

1 THE COURT: Outside the presence of the
2 jury, Mr. Rousseau, why don't you ask the questions you
3 want to ask then I'll hear her objections of why they
4 would not be encompassed under Rule 106, 107, series of
5 related conversations or writings under the rule of
6 optional completeness, under the common law rule that is
7 now codified in the rules of criminal evidence.

8 MR. ROUSSEAU: Yes, Your Honor. If I may be
9 permitted to lead just a little bit to get there.

10 THE COURT: I think that would probably be
11 appropriate based on nature of the objection. And be
12 pointed so she knows what you're -- where you're going
13 and whether there's a rightful objection and I can make
14 a proper ruling. So go ahead.

15 VOIR DIRE EXAMINATION

16 BY MR. ROUSSEAU:

17 Q. Mechelle, during your -- I apologize.

18 A. That's okay.

19 Q. And it's probably going to happen again so...

20 A. That's okay.

21 THE COURT: It isn't the first time.

22 Q. (BY MR. ROUSSEAU) Rebeca, during your
23 communications with Mechelle, regarding why or why not
24 any paternity testing had yet been done, did you at one
25 point accuse her of having cancelled certain

1 appointments for paternity testing?

2 A. Yes.

3 Q. And did she respond that yes, she had to cancel
4 one but others he had cancelled?

5 A. Yes.

6 Q. Did she, at some point in time during this back
7 and forth series of communications between you, tell you
8 that at one point in time she was under the impression
9 that he had been deployed overseas?

10 A. Yes.

11 Q. And that that was one of the reasons she had not
12 pushed the issue during that period of time?

13 A. Yes.

14 MR. ROUSSEAU: That's it, Your Honor.

15 THE COURT: Ms. Keene, if you want to
16 articulate any objections with that line of
17 questioning...

18 MS. KEENE: I mean, I really don't honestly,
19 I mean, except that it's not optional completeness and
20 so I don't know how far we're going to go. If he wants
21 to ask that, that doesn't really particularly offend me.
22 I didn't know where all he was going with this. Because
23 there was about 500 Facebook things that I don't want to
24 go into. If he wants to ask that question, that
25 doesn't -- there's nothing --

1 THE COURT: And in all fairness --

2 MS. KEENE: But if he keeps going, then I've
3 got issues. But if he stops there, I'm not...

4 THE COURT: Okay. Well, the rule is such
5 parts, in all fairness, be considered contemporaneously
6 and some are -- some things are, some things aren't.
7 But in light of the nature of the record before me, I
8 think that is the, quite frankly, aboveboard legal
9 position for you to take based on what's been offered.

10 And in that case, while they're out, is
11 there anything else that might raise an objection you
12 want to deal with, just to keep from sending them out,
13 that just your radar tells you might be an issue, if you
14 want to double-check. If not, if it pops up, we can
15 send them out again. I'm sure they like to stretch
16 their legs like we all do.

17 Let's take a short recess.

18 (Pause in proceedings)

19 (Witness on the stand)

20 THE COURT: All right. For the record, any
21 time when the Court says 106, 107, referring in code to
22 the attorneys, I'm referring to Rule 106, 107 of the
23 Texas Rules of Evidence. And, quite frankly, in this
24 modern day and age, if I ask my wife, the teacher, is a
25 Facebook a conversation or a writing, she'd say it's a

1 writing. If I ask my 21-year-old son, he would say it's
2 a conversation.

3 And so I'm not sure which rule would control
4 anymore in the modern age where people text instead of
5 talk. So I will always throw both rules out, based upon
6 modern era of legal theory and communication we're in,
7 to cover all bases. So I'm not trying to be confusing
8 and can't pick a rule. It's like I'm not sure really
9 which one would apply to that.

10 So with that, both sides ready to get the
11 jury back in?

12 MR. ROUSSEAU: I'm ready, Judge.

13 MS. KEENE: We're ready, Judge.

14 THE COURT: All right. Go get them.

15 (Jury seated in courtroom)

16 THE COURT: All right. You may re-ask your
17 question.

18 MR. ROUSSEAU: Thank you, Judge. I will
19 try.

20 THE COURT: All right.

21 REDIRECT EXAMINATION CONTINUES

22 BY MR. ROUSSEAU:

23 Q. Rebeca, during the time that you were
24 communicating with Mechelle regarding the -- both by
25 Facebook and by telephone, regarding the fact that

1 paternity testing had not proceeded, did you, in fact,
2 confront her about the fact that it was your
3 understanding that she had cancelled giving a DNA sample
4 on at least one occasion?

5 A. Yes.

6 Q. And did she acknowledge that she had, in fact,
7 done that?

8 A. Yes.

9 Q. But did she have an explanation for -- did she
10 also allege that she was not the only one who had
11 cancelled?

12 A. Yes.

13 Q. Who else had cancelled?

14 A. Thomas.

15 Q. During that period of time, did the subject of
16 the Defendant being deployed in the military come up?

17 A. Yes.

18 Q. And did this deployment have any connection to
19 Mechelle's failure to pursue paternity testing at that
20 time?

21 A. Yes.

22 Q. What did she tell you?

23 MS. KEENE: Objection to -- I mean --
24 objection to hearsay, Judge.

25 THE COURT: Overruled, 106, 107 to this

1 specific issue.

2 Q. (BY MR. ROUSSEAU) What did she tell you about
3 his deployment?

4 A. She said that from her understanding he said that
5 she -- he would be deployed overseas for about six
6 months or longer.

7 Q. And had that ever actually happened?

8 A. No.

9 Q. And did you ever -- in the days following the
10 murders, did you in Facebook communication address that
11 issue with Thomas? Did you actually mention that he had
12 represented that to Mechelle?

13 A. Yes.

14 Q. Do you recall how he reacted to that, how he
15 responded?

16 A. I don't remember.

17 MR. ROUSSEAU: May I approach, Your Honor?

18 THE COURT: Yes.

19 Q. (BY MR. ROUSSEAU) I'm looking at March 30th.
20 Does that help you remember that particular portion of
21 the communication between yourself and the Defendant?

22 A. Yes.

23 Q. Did you ask him -- or did you accuse him of
24 having told her that he was overseas?

25 A. Yes.

1 Q. And how did he respond to that?

2 A. He said it was crap.

3 Q. That -- crap that he had not told her or crap
4 that -- the statement that, yes, he was deployed
5 overseas was crap?

6 A. That he was deployed over -- can you -- I'm
7 sorry, can you repeat that?

8 Q. What I can do is let you look at it again.

9 A. Okay.

10 Q. Does that help you remember now?

11 A. Yes.

12 Q. Okay. What did he say about that?

13 A. Oh...

14 Q. About telling her that he had been deployed?

15 A. He said the deployment was for her to leave him
16 alone.

17 Q. That him telling her that was for -- so she would
18 leave him alone?

19 A. Yes.

20 Q. Ms. Keene asked you -- I believe the question was
21 something to the effect of you did not like Mechelle.
22 Do you recall that --

23 A. Yes.

24 Q. -- question?

25 And what was your response, how did you

1 actually feel about Mechelle?

2 A. Well, at first I didn't know how to feel about
3 her. I didn't particularly like her at first. But then
4 once I started talking to her and getting to know her
5 and listening to her side for once, I liked her.

6 Q. You were getting two stories of -- you were
7 getting two versions or two sides of the same issue at
8 that point in time; is that correct?

9 A. Yes.

10 Q. Which one made the most sense to you toward the
11 end?

12 A. Mechelle's.

13 Q. And the -- her sending you photographs that she
14 received from the Defendant and texts that she received
15 from the Defendant, whose idea was that?

16 A. I'm sorry, I kind of went blank for a minute.
17 Can you please repeat that?

18 Q. You've only been up there for about six hours.

19 Her sending you photographs and text
20 messages that she had gotten from the Defendant, that
21 happened --

22 A. Yes.

23 Q. -- correct?

24 A. Yes.

25 Q. Whose idea was that? Whose idea was it to send

1 you those texts, yours or hers?

2 A. Mine.

3 Q. And did you do that in an attempt to see if she
4 could back up what she was saying?

5 A. Yes.

6 Q. Was there something -- we talked -- you and I
7 talked for a few minutes during lunch; is that correct?

8 A. Yes.

9 Q. Was there something that you want to correct
10 about the testimony that you gave this morning?

11 A. Yes.

12 Q. What was that?

13 A. It was just about the morning of March 21st. I
14 thought I had taken my children to school but I -- and I
15 don't remember who it was, but I know either my uncle or
16 my dad or cousin took my kids to school. It wasn't me
17 that took to them to school that morning.

18 Q. And you ended up going to the police department
19 that day, correct?

20 A. Yes.

21 Q. Let's talk about how you were distraught. I
22 believe the term used was "hysterical" during the
23 evening or very early morning hours when you talked to
24 the police, when -- the Arlington police. Do you recall
25 that series of questions?

1 A. I recall them. It's --

2 Q. That's okay.

3 A. -- it's been three and a half years. I recall
4 most of them.

5 Q. Okay. That's fine. Really what I want to ask
6 you about is, I'm trying to ask you if you can explain
7 to the jury why it was at 6:00 o'clock in the morning or
8 so when you were talking to the police, on the morning
9 following the murders, why is it that you were so upset,
10 why -- before you knew the full story, why is it that
11 you were so upset?

12 A. I was scared. I didn't know where Thomas was. I
13 didn't know if he had anything to do with something. I
14 just -- I was scared for my children. I didn't know
15 what was going on, so I was panicking.

16 Q. At that point, that was some four days after
17 you'd been kicked out around midnight; is that correct?

18 A. Yes.

19 Q. Did you have a belief at that point in time about
20 whether or not Thomas hated Mechelle and Asher?

21 MR. MOORE: Again, Judge, I'm going to
22 object to him leading his witness.

23 THE COURT: Yeah. Sustained to that one.

24 Q. (BY MR. ROUSSEAU) Did you have a belief at that
25 point in time about Thomas' feelings towards Mechelle

1 and Asher?

2 A. Yes.

3 Q. What was -- what did you believe that feeling to
4 be?

5 A. Hatred.

6 Q. Did you have a belief at that time about whether
7 or not Mechelle and Thomas had been communicating the
8 previous evening?

9 A. Can you repeat that, please?

10 Q. Did you have a belief that Thomas and Mechelle
11 had been communicating the previous evening? This is
12 very early in the morning, 6:00 o'clock on the now
13 Monday morning?

14 A. Yes.

15 Q. And did you know Mechelle was dead?

16 A. No.

17 Q. Did the police tell that you Mechelle -- that
18 there -- that something had happened at Mechelle's
19 apartment?

20 A. Not right away. But they eventually -- they
21 didn't even tell me where. They just say something had
22 happened to Mechelle. And then eventually they said
23 there's been a double homicide. It was very slowly into
24 them telling me what had happened.

25 Q. While you were on the telephone that night, the

1 first phone call that you were able to actually
2 communicate, it was communicated to you that something
3 had happened to Mechelle?

4 A. Yes.

5 Q. How tall are you?

6 A. I'm about five-four.

7 Q. How much do you weigh?

8 A. A hundred and ten.

9 Q. About the same size back then?

10 A. Yes.

11 Q. The Defense lawyer also asked you whether after
12 all this happened in the -- I guess in the several
13 months later, whether you were, quote, back within his
14 graces, talking about Thomas' graces. Is that the way
15 you would characterize it?

16 A. No.

17 Q. When you and Thomas started spending time
18 together again, whose idea was that? Let me rephrase
19 that. That wasn't very fair.

20 Up until you started spending some time with
21 Thomas again, had he made any request of you to spend
22 time together?

23 A. Yes.

24 Q. Had he communicated with you frequently?

25 A. Yes.

1 Q. Had he at any point in time threatened suicide if
2 you did not take him into your life again?

3 A. Yes.

4 Q. Was there a point in time on Facebook when he was
5 quite insistent that he was going to kill himself that
6 night?

7 A. Yes.

8 Q. Rebeca, have you actually lost people in your
9 family, close to you, to suicide?

10 A. Yes.

11 Q. Did he know that?

12 A. Yes.

13 Q. And when the relationship finally ended, who
14 ended it?

15 A. I did.

16 Q. This moment -- this situation that took place at
17 the pool, did he strike Rya in any way?

18 A. No.

19 Q. Did he threaten her in any way?

20 A. No.

21 Q. Did he threaten you in any way?

22 A. No.

23 Q. Was there any reason for you to have reported
24 that to the police?

25 A. No.

1 Q. Was it something that made an impact on you
2 personally?

3 A. Yes.

4 Q. There were a series of questions regarding
5 Mechelle breaking up your happy home. Do you recall the
6 Defense lawyer asking you those questions?

7 A. Yes.

8 Q. Is this the first time you'd suspected Thomas of
9 cheating on you?

10 A. No.

11 Q. Was the -- his infidelity a concern of yours
12 going back several years?

13 A. Yes.

14 Q. What was that based on?

15 A. I'm not really sure what you mean by what was
16 that based on.

17 Q. Did he spend a lot of time away from home?

18 A. Yes.

19 Q. And I don't mean when he's in the military. I
20 mean at night?

21 A. Yes.

22 Q. And when he's not working, still -- when he's not
23 working, still away from home?

24 A. Yes.

25 Q. Are you familiar with Golden Tee?

1 A. Yes.

2 Q. What is Golden Tee?

3 A. It's a video game, a golf video game.

4 Q. Did he play Golden Tee?

5 A. Yes.

6 Q. Would you character -- how would you characterize
7 his Golden Tee playing? I don't mean was he good or
8 bad. I mean how frequently would he play?

9 A. Oh, like every weekend at least, if not -- even
10 during the week, sometimes after work.

11 Q. And where would he go to play Golden Tee?

12 A. He would go to various bars, but mainly Boston's
13 and Volcanos.

14 Q. And Volcanos, did you ever go to Volcanos with
15 him?

16 A. I went once or twice.

17 Q. How --

18 A. I've never frequented him with his Golden Tee
19 playing.

20 Q. How about Boston's, did you ever go to Boston's
21 with him?

22 A. Yes.

23 Q. How many times?

24 A. Probably just one to three times.

25 Q. And did he have a regular circle of Golden Tee

1 friends?

2 A. Yes.

3 Q. You were asked about Mechelle going to Truluck's
4 by the Defense lawyer. Do you recall being asked that
5 question or series of questions touching on that?

6 A. Yes.

7 Q. What was the source of your information that
8 Mechelle had gone to Truluck's?

9 A. Mechelle.

10 Q. You got that from Mechelle, she told you?

11 A. Yes.

12 Q. Did she tell you why she went to Truluck's?

13 A. She did. I just don't remember the full
14 conversation.

15 Q. Well, as best you can.

16 A. She said she was really angry and she mainly
17 wanted to confront him and embarrass him in front of
18 everybody.

19 Q. Do you know if that happened?

20 A. I don't know for sure because I wasn't present.

21 Q. Do you recall whether that had any connection to
22 his claim of being deployed overseas?

23 A. I'm sorry, can you...

24 Q. Her going to Truluck's to confront him, do you
25 recall whether that had any connection to his having

1 told her that he was deployed overseas?

2 A. I'm not sure. I don't remember.

3 Q. What did you mean when you said sometimes
4 Mechelle can be aggressive, or that she is aggressive?

5 A. Well, some of our conversations we had, she would
6 be like, "Well, come to my work, we'll have a family
7 outing," and just kind of like confrontational with me.
8 But then I'd be like, "Mechelle, come on, calm down."

9 Q. Was she joking?

10 A. Like sometimes she would be kind of joking, but
11 then sometimes she wasn't. She would kind of try to
12 push my nerve a little bit. But then I would kind of
13 tell her, you know, "We don't have to be this way."

14 Q. Would it be fair to say that your relationship
15 with Mechelle was sometimes cordial, sometimes not?

16 A. Yes.

17 Q. I believe you even said during your
18 cross-examination you never completely trusted her?

19 A. Right.

20 Q. Even at the end, even when you were already out
21 of the house and you were talking to her freely, did you
22 have concerns about her honesty with you?

23 A. Somewhat.

24 Q. Okay. Defense Counsel asked you a number of
25 questions about your testimony that the Defendant had

1 said words to the effect of "that fucking baby is the
2 devil's child." Do you recall being asked by Defense
3 Counsel that question?

4 A. Yes.

5 Q. Okay. I want to -- do you recall, in a Facebook
6 communication with the Defendant, asking him or throwing
7 that very, very thing in front of him, that is accusing
8 him of saying those exact or almost those exact words
9 regarding this baby?

10 A. Yes.

11 Q. And what did he say in response? What did he
12 write to you in response? Do you recall?

13 A. I don't remember word for word, but I know he
14 acknowledged that he said it.

15 MR. ROUSSEAU: May I approach, Your Honor?

16 THE COURT: Yes.

17 Q. (BY MR. ROUSSEAU) I'm looking -- I'm pointing to
18 a passage dated March 30th at 4:23 p.m.; is that
19 correct?

20 A. Yes.

21 Q. Okay. Just, to yourself, please read the
22 highlighted portions.

23 Have you finished that passage?

24 A. Yes.

25 Q. And you see where -- is this the response down

1 here at the bottom of the page, March 30th at 4:37 p.m.?

2 A. Yes.

3 Q. Okay. Let's see.

4 Does he acknowledge calling him that?

5 A. Yes.

6 Q. All right. Specifically did you ask him --

7 accuse him of calling him the devil's child?

8 A. Can you repeat the question?

9 Q. Did you specifically ask or accuse him of having
10 called Asher the devil's child?

11 A. Yes.

12 Q. And did he say yes, I called him that?

13 A. Yes.

14 Q. Or called them that?

15 A. Yes.

16 Q. Okay. You just didn't use the F word, correct?

17 A. Correct.

18 Q. But in your face-to-face communications with him,
19 did he, in fact, use the F word?

20 A. Yes.

21 Q. Why did you -- I want to use Defense Counsel's
22 words here. Why did you give Mechelle the "what for"
23 about showing up at the Defendant's job?

24 A. Because I thought, well, if she was not liking
25 him at the time and he wasn't liking her, they were

1 hating each other, why come in close proximity of each
2 other.

3 Q. Uh-huh. It didn't make sense, did it?

4 A. No.

5 MR. ROUSSEAU: May I approach, Your Honor?

6 THE COURT: Yes.

7 Q. (BY MR. ROUSSEAU) I want to show you what's been
8 marked as State's Exhibit No. 232. It's a disc; is that
9 correct?

10 A. Yes.

11 Q. Are these your initials right here?

12 A. Yes.

13 Q. Did you listen to this disc during the lunch
14 hour?

15 A. Yes.

16 Q. And do you recognize the contents of the disc?

17 A. Yes.

18 Q. Is that a recorded phone message that was left on
19 your home answering machine by the Defendant?

20 A. Yes.

21 Q. And would this be at a time after your cell phone
22 had been destroyed?

23 A. Yes.

24 Q. So was this your only way of receiving messages?

25 A. Yes.

1 Q. Does it fairly and accurately duplicate the
2 message that was left on the -- on your machine?

3 A. Yes.

4 Q. And that machine, I suppose, is capable of
5 recording accurately phone messages that someone chooses
6 to leave?

7 A. Yes.

8 Q. And does it actually include a -- the machine
9 itself, does it include a reference to a date and a
10 time?

11 A. Yes.

12 Q. And in your experience has that date and time
13 been accurate?

14 A. Yes.

15 MR. ROUSSEAU: Your Honor, I'll offer
16 State's Exhibit 232, subject to any objection by
17 Defense.

18 MS. KEENE: Can I talk to Kevin real quick?

19 THE COURT: Yes.

20 (Sotto voce discussion between attorneys)

21 MS. KEENE: No objection, Judge. It
22 represents the one I've had.

23 THE COURT: All right. It's admitted
24 without objection.

25 (State's Exhibit No. 232 admitted)

1 MR. ROUSSEAU: May I publish, Your Honor?

2 THE COURT: Yes, you may.

3 (State's Exhibit No. 232 played in open
4 court)

5 Q. (BY MR. ROUSSEAU) Rebeca, had you asked Mechelle
6 to help you out in some way?

7 A. No.

8 Q. Had you had any communication with Mechelle about
9 trying to get your stuff out of the apartment?

10 A. Yes.

11 Q. Did you ultimately -- were you already taking
12 steps to make that happen?

13 A. Yes.

14 Q. Did you ask her to help you?

15 A. No.

16 Q. Did you know that she had contacted Thomas about
17 that?

18 A. No.

19 Q. Did you ever contact her after getting this
20 message?

21 A. Yes.

22 Q. Were you happy about her having tried to
23 intervene on your behalf?

24 A. No.

25 Q. Was she your best friend?

1 A. No.

2 Q. Generally speaking, what did the Defendant think?
3 What was his attitude towards your having any
4 communications or any relationship with Mechelle?

5 A. Can you repeat that, please?

6 Q. Sure. What did the Defendant think about you and
7 Mechelle having communicated?

8 MS. KEENE: Your Honor, I'm going to have to
9 object to what she thought he thought. That's pure
10 speculation.

11 THE COURT: Yeah. As phrased, implies the
12 same.

13 MR. ROUSSEAU: That's fine.

14 Q. (BY MR. ROUSSEAU) How did he behave regarding
15 when that topic was brought up?

16 A. Angry.

17 MR. ROUSSEAU: May I approach again, Your
18 Honor?

19 THE COURT: Yes, sir.

20 Q. (BY MR. ROUSSEAU) Rebeca, I want to show you
21 what has been marked as State's Exhibit No. 233. Just
22 take a second or two to look at that and I'll ask you a
23 question about it.

24 Okay. And I let you look at this a little
25 bit during the break; is that correct?

1 A. Yes.

2 Q. Does this appear to be the same paperwork that
3 was delivered to your father's house by Mechelle?

4 A. Yes.

5 Q. This is the same paperwork that you have
6 described as sounding like Mechelle was the one being
7 sued, correct?

8 A. Yes.

9 Q. Okay.

10 MR. ROUSSEAU: Your Honor, I will offer
11 State's Exhibit 233. It is a certified public record
12 under seal in Cause No. 231-493121-11.

13 MS. KEENE: May I take the witness on voir
14 dire, Judge?

15 THE COURT: Yes.

16 VOIR DIRE EXAMINATION

17 BY MS. KEENE:

18 Q. Is this the actual paperwork that you were given
19 by Mechelle, do you know? Or is this a copy?

20 A. I have no idea.

21 MS. KEENE: Judge, I'm going to object
22 because we don't know if it's the exact same paperwork
23 she's talking about.

24 MR. ROUSSEAU: It's a certified public
25 record, Your Honor.

1 THE COURT: Let me see it.

2 All right. What's your response to it as a
3 tender offer as a public document?

4 MS. KEENE: I don't have any objection to
5 offering it as a public document and representing it as
6 a document he went and got from a public place, as
7 opposed to that being a document that she gave to them.

8 THE COURT: I think he just offered it under
9 the authentication as a certified public record.

10 MS. KEENE: As long as it's clear to the
11 jury that that's just public record that he's putting
12 into evidence to show and to talk to her about, I don't
13 have any objection. If he's putting it into evidence
14 saying this is the document that she was talking about
15 that was delivered to her mailbox, I do.

16 THE COURT: All right. Well, let's try
17 this. How about I admit it as a public record and if he
18 wants to ask her like something she has, you can object
19 if she didn't actually see this one, to the form of the
20 question. But you have no objection on its face value
21 of the four corners of the document?

22 MS. KEENE: Not at all, Judge.

23 THE COURT: Then it's admitted, 233.

24 (State's Exhibit No. 233 admitted)

25 THE COURT: And if you think if any question

1 implies something that's not, then you can raise an
2 objection and I'll deal with it at the time, or not.

3 REDIRECT EXAMINATION CONTINUES

4 BY MR. ROUSSEAU:

5 Q. You stated already that this looks the same; is
6 that correct?

7 A. Yes.

8 Q. Looks the same as the documentation that was
9 delivered to your house -- your father's house, correct?

10 A. Yes.

11 Q. You're not trying to say this is word for word,
12 right?

13 A. Right.

14 Q. In fact, when you got it and were able to read
15 it, did you read every word of it?

16 A. No.

17 Q. Was it confusing to you?

18 A. Yes.

19 Q. And have you still not read every word of this?

20 A. No.

21 MR. ROUSSEAU: Pass the witness, Your Honor.

22 Oh, wait. Can I ask one -- I apologize.

23 Forgot something.

24 THE COURT: Yes.

25 MR. ROUSSEAU: That's okay, Judge. I'll

1 pass the witness.

2 RECROSS-EXAMINATION

3 BY MS. KEENE:

4 Q. On March the 20th of 2001 (sic) did you believe
5 that Mechelle was going to meet with Thomas about the
6 confusing paperwork in the child custody -- child
7 paternity suit?

8 A. It was actually March 2011.

9 Q. I'm sorry. You're correct.

10 A. Can you actually rephrase the whole question?

11 Q. Yeah. Did you believe that they were going to
12 meet that night and discuss the paternity paperwork that
13 Mechelle had been served with that appeared to be very
14 confusing?

15 A. Yes.

16 Q. And --

17 MS. KEENE: Judge, can I approach the
18 witness?

19 THE COURT: Yes.

20 Q. (BY MS. KEENE) That was your understanding of
21 why they were meeting?

22 A. Yes.

23 Q. And Mechelle had actually brought to your
24 father's house and put inside your father's mailbox some
25 paperwork that you looked at, correct?

1 A. Yes.

2 Q. That had been served on her?

3 A. Yes.

4 Q. And when you looked at it, it was also confusing
5 to you?

6 A. Yes.

7 Q. Correct?

8 A. Yes.

9 Q. I'm going to show you what's been marked as
10 Defense Exhibit No. 273. And this has one more page
11 than the public record that you've already looked at.
12 Okay?

13 A. Okay.

14 Q. And on this page if you look at right here where
15 my finger is, does that help ring a bell about what some
16 of the big confusion was with Mechelle and with you when
17 you guys looked at this paperwork?

18 A. Yes.

19 Q. And what -- help me -- Defense Exhibit No. 273
20 helping ring a bell, what was so confusing about it?

21 A. Just the wording and just the way the typing was.
22 It just didn't seem in order.

23 Q. And it -- did it actually seem to be against
24 Mechelle Gandy?

25 A. Yes. And -- but I also saw Thomas' name and I

1 didn't read it thoroughly so I wasn't -- I just wasn't
2 sure.

3 Q. Okay. When you hear that Mechelle is going to
4 meet with Thomas because she needs help understanding
5 the paternity paperwork that she's been served with,
6 does that cause you concern as a person who loved
7 Thomas?

8 A. Can you repeat that, please?

9 Q. Yes, I can. And I can explain where I'm trying
10 to go.

11 You stated that you did not trust Ms. Gandy,
12 correct?

13 A. Correct.

14 Q. And you did not trust Ms. Gandy to be alone with
15 the man that you loved, Thomas?

16 A. Correct.

17 Q. And now you know, on March the 20th, you've
18 heard, that Ms. Gandy would like to see Mr. Thomas so
19 that he can explain the paternity paperwork that she's
20 been served with?

21 A. Correct.

22 Q. Correct?

23 A. Yes.

24 Q. Does that cause you concern because you're
25 worried about them being alone or anything about that?

1 A. Yes.

2 Q. Okay. So you are concerned about her using you
3 and using this as a ploy to become deeper in his life?

4 A. No.

5 Q. Okay. You're concerned about her taking your
6 place?

7 A. No.

8 Q. Okay. What are you concerned about?

9 A. I was concerned because I knew they were just
10 hating each other at the moment and I thought, well, why
11 in the world would either of them even think about
12 getting together in person if they're like having these
13 hateful things to say towards each other, it didn't make
14 sense to me.

15 Q. Okay. Oh, I follow that. So what you're
16 thinking is he's telling me he hates her, she's telling
17 me she hates him?

18 A. Correct.

19 Q. But yet they're going to get together and talk
20 about paternity paperwork that she's confused about?

21 A. Right.

22 Q. All right. Where does that play into also your
23 concern about her trying to get with him, so to speak?

24 A. Well, it was more of a concern of him
25 manipulating her still, because that's how he was.

1 Q. Well, but you testified here earlier you actually
2 didn't trust her because she is the person that was
3 sleeping with Thomas?

4 A. Right. I didn't trust her, either. I didn't
5 trust the situation at all in different ways.

6 Q. In a lot of different ways, that's actually just
7 the truth, isn't it?

8 A. Yes.

9 Q. And the situation doesn't make sense that they're
10 going to get together to talk about a paternity case
11 that she's in theory served on him, correct?

12 A. Correct.

13 Q. But yet she did bring you the paperwork and it
14 was confusing?

15 A. Yes.

16 Q. So then you think, well, maybe they are going to
17 get together to talk about the paperwork because it is
18 confusing?

19 A. I didn't really think that until I was -- I had
20 the understanding that they were going to get together.

21 Q. And it was your --

22 A. That they might get together.

23 Q. Okay. It was your understanding that they
24 might -- that they might get together?

25 A. Correct.

1 Q. That she wanted him to help her understand this
2 paperwork?

3 A. I think they both -- I think it was mainly Thomas
4 wanting to understand the paperwork, but I think they
5 both were trying to understand it.

6 Q. And you at least, having seen the paperwork, can
7 say, well, it is confusing?

8 A. I have seen the paperwork.

9 MS. KEENE: Judge, I would offer in the two
10 charts, which I don't remember what the Defense numbers
11 are. Okay. I'll --

12 THE COURT: Might as well double-check.

13 MS. KEENE: Defense Exhibit No. 271 and 272.

14 THE COURT: Are they single-page documents
15 or are they multiple-page documents?

16 MS. KEENE: No, Judge. I'm going to offer
17 in Defense Exhibit No. 272, which is a three-page
18 document -- I'm sorry -- let's start over. Start over.

19 THE COURT: Rewind.

20 MS. KEENE: I'd like to offer in Defense
21 Exhibit No. 271 --

22 THE COURT: Okay.

23 MS. KEENE: -- which is a three-page
24 document.

25 THE COURT: And that's three bulletin board

1 pages like have been used throughout the trial?

2 MS. KEENE: Yes, sir.

3 THE COURT: All right.

4 MS. KEENE: And I'm going to offer in
5 Defense 272, which is a two-page document, the bulletin
6 pages, like has been offered in, in the trial.

7 THE COURT: All right.

8 MS. KEENE: And, Judge, I pass the witness.

9 THE COURT: Hold on a second.

10 MS. KEENE: Hang on.

11 THE COURT: Do you remember from seeing
12 those without flipping them all over and looking at
13 them?

14 MR. ROUSSEAU: I do, Your Honor. I have no
15 objection.

16 THE COURT: All right. Then 271, the
17 three-page easel bulletin-sized documents, which are
18 basically like 16 inches by 30 inches square, plus or
19 minus, and Defense 272, a two-page document, are both
20 admitted.

21 (Defendant's Exhibit No. 271, 272 admitted)

22 THE COURT: Any redirect?

23 (Pause in proceedings)

24 THE COURT: All right. Back on the record.

25 MR. ROUSSEAU: Your Honor, I'll offer

1 State's Exhibit No. 234, which is a citation in Cause
2 No. 231-493121-11, addressed to Mechelle D. Gandy. It's
3 a certified public document under seal.

4 MS. KEENE: Judge, I have no objection to
5 that.

6 THE COURT: All right. State's 234
7 admitted.

8 (State's Exhibit No. 234 admitted)

9 FURTHER REDIRECT EXAMINATION

10 BY MR. ROUSSEAU:

11 Q. Rebeca, I promise I'm going to be brief. I meant
12 to do this earlier.

13 March the 15th -- I don't want to get us
14 wrong. March the 15th would have been Tuesday.
15 Counting back, towards, the 20th was a Sunday, correct?

16 A. Yes.

17 Q. The 19th is a Saturday?

18 A. Yes.

19 Q. The 18th is a Friday?

20 A. Yes.

21 Q. The 17th is a Thursday?

22 A. Yes.

23 Q. The 16th is a Wednesday?

24 A. Yes.

25 Q. So the 15th would be Tuesday, correct?

1 A. Yes.

2 Q. And Tuesday is the day that you went to Best Buy
3 to pick up the Defendant, correct?

4 A. Yes.

5 Q. The next day was March the 16th, Wednesday, is
6 that the day that the Defendant threw you out of the
7 apartment with your kids?

8 A. Yes.

9 Q. And was that the day your phone was broken by the
10 Defendant?

11 A. Yes.

12 Q. And from -- that's okay for now.

13 Did you receive a telephone call sometime
14 between March the 16th, which is Wednesday, and Sunday,
15 which is the day of the murders, did you receive a
16 telephone call during that time from a friend of the
17 Defendant's named Isaac?

18 A. Yes.

19 Q. Do you recall what day that was?

20 A. I want to say Wednesday or -- Thursday or Friday.

21 Q. Okay. You've been seeing me write on this chart,
22 which I've had marked as State's Exhibit No. 235; is
23 that correct?

24 A. Yes.

25 Q. Have I accurately recorded the little -- the last

1 little conversation between the two of us?

2 A. Yes.

3 MR. ROUSSEAU: Your Honor, I'll offer
4 State's 235.

5 MS. KEENE: No objection, Judge.

6 THE COURT: All right. State's 235 is
7 admitted.

8 (State's Exhibit No. 235 admitted)

9 MR. ROUSSEAU: I'll pass the witness.

10 FURTHER RECROSS-EXAMINATION

11 BY MS. KEENE:

12 Q. Did you talk to Thomas on the telephone or
13 otherwise on March the 20th of 2011?

14 A. No.

15 Q. Did you call him two times, though?

16 A. Yes.

17 Q. And when you called him, did you just sit there
18 and not talk?

19 A. Yes.

20 Q. And so you just called to listen to him?

21 A. Yes.

22 Q. And you never said, Hey, this is Rebeca, what are
23 you doing? Nothing?

24 A. No.

25 Q. You just called -- and you actually blocked your

1 number when you called, didn't you?

2 A. Yes.

3 Q. So you block your number and called Thomas and
4 then just sat there?

5 A. Yes.

6 Q. Twice?

7 A. Yes.

8 Q. And the information that you had about them,
9 about Thomas and Mechelle might -- that this possible
10 meeting did not come from Thomas, it came from Mechelle?

11 A. Yes.

12 MS. KEENE: I'll pass the witness.

13 FURTHER REDIRECT EXAMINATION

14 BY MR. ROUSSEAU:

15 Q. Why did you just sit there and listen?

16 A. I was curious as to where he was for some reason.
17 I don't really know. I was wondering if he was at the
18 bars or if he was going to meet with Mechelle. Or I
19 don't really know what I was particularly listening for.
20 It was really nonsensical, even to me now, that I did
21 that. I really don't know what I was really -- I just
22 remember then trying to listen to see if he was at the
23 bar or where he was at.

24 Q. Looking back now at that period of time, that
25 roughly five-day period, and I guess for you it actually

1 continued for a period of time after that, but
2 especially that five-day period ending on the Sunday of
3 the murders --

4 A. Uh-huh.

5 Q. -- did that -- does that seem to be a pretty
6 tumultuous time for you?

7 A. Yes.

8 Q. It was pretty much a period during which you
9 were --

10 MS. KEENE: I'm going to have to object to
11 him leading his witness, Your Honor.

12 THE COURT: Sounds like it is.

13 MR. ROUSSEAU: Fair enough. I'll withdraw
14 the question.

15 Q. (BY MR. ROUSSEAU) What was your emotional state
16 during that five-day period? Describe it as best you
17 can.

18 A. Confused. Drained. Tired. I wanted somebody to
19 tell me something, some sort of truth. Angry.
20 Frustration. Sadness for my kids. Just all kinds of
21 emotions.

22 MR. ROUSSEAU: Your Honor, I'll offer -- I
23 didn't mark this. I'm sorry.

24 I want to offer State's 236. It's a
25 citation, certified copy, under seal, a citation, again,

1 in Cause No. 231-493121-11.

2 MS. KEENE: I have no objection, Judge.

3 THE COURT: All right. State's 236, which
4 looks like it's a four-page document, is admitted.

5 (State's Exhibit No. 236 admitted)

6 MR. ROUSSEAU: Thank you, Judge. I'll pass
7 the witness.

8 FURTHER RECROSS-EXAMINATION

9 BY MS. KEENE:

10 Q. Ms. Raudry, the reality was --

11 THE COURT: Whoa, whoa, whoa.

12 All right. Go ahead, Joetta.

13 MR. ROUSSEAU: I'm sorry. Go ahead.

14 Q. (BY MS. KEENE) Rebeca, the reality was, this was
15 a very stressful week, correct?

16 A. Yes.

17 Q. And during this week, in this time period, you
18 said you were staying on your medication?

19 A. Yes.

20 Q. Were you seeing your psychiatrist at all during
21 this week?

22 A. No.

23 Q. Did you feel like you needed to or did you feel
24 like -- just looking back, was your mind doing anything
25 weird to you?

1 A. No.

2 Q. Do you recall how you were becoming obsessed with
3 Thomas and watching him intensely on Facebook?

4 A. No.

5 Q. How you were watching every post and then
6 watching if it got removed?

7 A. Yes, I did.

8 Q. And you would see that if he was at a bar, when
9 he had been broken up with you, and someone had tagged
10 him there, you noticed it and how you were trying to
11 download it and see it quicker than it got removed?

12 A. Yes.

13 Q. And so you were watching Thomas very intensely on
14 Facebook from really the moment that he kicked you out?

15 A. Yes.

16 Q. And then kind of being weird and calling him?

17 MR. ROUSSEAU: Objection, Your Honor.
18 That's argumentative.

19 MS. KEENE: All right.

20 THE COURT: Well, if there's a question,
21 then ask the question.

22 MS. KEENE: There is.

23 THE COURT: Then ask the question.

24 Q. (BY MS. KEENE) You agree with me it's weird to
25 call somebody and just sit there?

1 A. Yes.

2 Q. Okay. So you were really watching him hard on
3 Facebook and you were being weird calling him and
4 sitting there and not talking?

5 A. I guess so.

6 Q. And it was a very difficult time period?

7 A. Yes.

8 MS. KEENE: Pass the witness.

9 FURTHER REDIRECT EXAMINATION

10 BY MR. ROUSSEAU:

11 Q. Rebeca, the card that we looked at earlier, the
12 invitation --

13 A. Yes.

14 Q. -- when it -- after you had -- when you left the
15 apartment, got kicked out of the apartment, what -- did
16 that card go with you or did you leave it behind?

17 A. I left it behind.

18 MR. ROUSSEAU: That's all I have, Your
19 Honor.

20 FURTHER RECROSS-EXAMINATION

21 BY MS. KEENE:

22 Q. You got that card at your dad's house, correct?

23 A. Yes.

24 Q. And you testified earlier that you never left
25 that card or gave that card to Thomas?

1 A. No, I kept it in a drawer in our armoire, like a
2 set of drawers.

3 Q. So you kept it at your house, not at your dad's
4 house?

5 A. Not at my house. At the apartment.

6 Q. Okay. You kept it at your apartment?

7 A. Yes.

8 Q. But it was received at your dad's house?

9 A. Yes.

10 Q. So when you left, you're saying you left the card
11 there?

12 A. I left the card in the armoire, yes, at the
13 apartment.

14 Q. But you ultimately get the card again?

15 A. Yes.

16 Q. Did you go get it out of the armoire?

17 A. No, I -- that armoire was mine, so I took the
18 whole armoire. And that was still in there.

19 Q. All right. So the card was in the same place you
20 put it, in the armoire. When you went and got the
21 armoire, you took it with you?

22 A. Yes.

23 Q. When you moved out?

24 A. Yes.

25 Q. Okay.

1 MS. KEENE: Pass the witness.

2 MR. ROUSSEAU: Nothing further.

3 THE COURT: May this witness be excused
4 subject to recall, only if needed?

5 MS. KEENE: Yes, sir.

6 MR. ROUSSEAU: Yes, sir.

7 THE COURT: All right. Then may I have
8 that, please?

9 THE WITNESS: Yes.

10 THE COURT: Whose memory refresher does this
11 belong to?

12 MS. KEENE: It's mine.

13 THE COURT: All right. You're excused from
14 the proceedings subject to the rules that apply to
15 witnesses; meaning, you can't talk to anyone about
16 anything that happened in the courtroom unless you're
17 speaking in private with the lawyers you've already
18 spoken to, their partners or representative or their
19 agents, if someone needs to contact you to ask you
20 questions to decide whether to call you back. But you
21 certainly can't talk to anyone that's not an officer of
22 the court until you find out the jury has reached a
23 final decision at the end of the trial. And you
24 promise, if I need you back, you can be back on
25 reasonable notice so you don't have to sit around and

1 wait?

2 THE WITNESS: Yes.

3 THE COURT: And you plan on being in town
4 the next week or two? You're not planning on leaving
5 town or anything?

6 THE WITNESS: No.

7 THE COURT: All right. Excellent. You're
8 excused. Thank you for coming in.

9 (Witness excused from courtroom)

10 (Break taken, 3:55 - 4:05 p.m.)

11 (OPEN COURT, DEFENDANT AND JURY PRESENT)

12 (Witness on the stand)

13 THE COURT: You may call and identify your
14 next witness.

15 MR. ROUSSEAU: Thank you, Judge.

16 We call Richard Armistead.

17 THE COURT: If you would state your name out
18 loud for Miss Karen again and this time for the members
19 of the jury, as well.

20 THE WITNESS: Richard Armistead.

21 THE COURT: You've already been sworn and
22 placed under the rules outside the jury's presence; is
23 that correct?

24 THE WITNESS: That's correct.

25 RICHARD ARMISTEAD,

1 having been first duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. ROUSSEAU:

4 Q. How are you doing today, sir?

5 A. I'm doing okay.

6 Q. Okay. Been all day waiting?

7 A. Yeah. That's all right.

8 Q. Appreciate your patience.

9 You are Richard Armistead; is that correct?

10 A. Yes, it is.

11 Q. Mr. Armistead, what do you do for a living?

12 A. I'm the service director at Shady Valley Country
13 Club.

14 Q. Where is Shady Valley Country Club?

15 A. In South Arlington.

16 Q. Southwest Arlington?

17 A. Yes.

18 Q. Near the lake?

19 A. Off of 820.

20 Q. Yes, sir. Was there back in the day -- well, I'm
21 sorry. I'm kind of getting ahead of myself. What is
22 that? What do you do for the Shady Valley Country Club?

23 A. Service director. I'm in charge of all banquets,
24 the ala carte dining, the pub, swimming, pretty much
25 everything with customer relations involving food and

1 alcohol.

2 Q. Things that -- the fun things that we associate
3 with a country club?

4 A. Yes.

5 Q. Do you have a background in the restaurant
6 industry?

7 A. Yes.

8 Q. Specifically back in about 2011 were you working
9 for a restaurant called Truluck's?

10 A. In Southlake, yes.

11 Q. How long did you work for Truluck's?

12 A. I worked there for about four years at that
13 location and then six months prior at the Uptown
14 location.

15 Q. Uptown in Dallas?

16 A. Uh-huh.

17 Q. And what -- that's yes?

18 A. Oh, yes. I'm sorry.

19 Q. Makes it easier for her.

20 While you worked for Truluck's, did you come
21 to know a person named Thomas Olivas?

22 A. Yes, sir.

23 Q. And do you see Thomas Olivas here in the
24 courtroom today?

25 A. Yes, I do.

1 Q. Would you point him out and describe something
2 that he's wearing, please.

3 A. He's wearing a black suit coat and beige tie.
4 That's beige, correct?

5 Q. At the end of this table?

6 A. Yes.

7 MR. ROUSSEAU: May the record reflect the
8 witness has identified the Defendant?

9 THE COURT: It may.

10 Q. (BY MR. ROUSSEAU) Now, Mr. Armistead, how long
11 did you work with Mr. Olivas?

12 A. Probably about three years.

13 Q. All at Truluck's?

14 A. Yeah, all at Truluck's.

15 Q. Have you ever worked with him anywhere else?

16 A. No.

17 Q. During that period of time would you characterize
18 your relationship with him as -- well, would you have
19 considered him to be a friend?

20 A. Yes, definitely.

21 Q. And would you socialize outside of work, as well
22 as at work?

23 A. After work, yes.

24 Q. I want to -- you understand that -- well,
25 generally speaking, you know the case we're here to talk

1 about, correct?

2 A. Yes.

3 Q. And if I were to say -- to tell you that the
4 important date, the date of the occurrence, was March
5 the 20th of 2011, would that jibe with your memory
6 somewhat?

7 A. Not with the dates, but I know the incident we're
8 referring to.

9 Q. Exactly. And I'm not trying to be exact, but
10 approximate time of the year.

11 A. Yes.

12 Q. The spring of the 2011?

13 A. Yes.

14 Q. During that period of time, the time leading up
15 to that, to the incident, do you recall noticing a
16 change in Thomas' behavior?

17 A. Thomas and I used to work a lot together, almost
18 every day, and then closer to the end it was -- he was
19 working less shifts. He was requesting to be off more.
20 He started looking to get another job. I could tell he
21 wasn't happy with where he was at and things weren't
22 going well for him, so he was distancing himself.

23 Q. Were you seeing less and less of him at work?

24 A. Oh, yes.

25 Q. Do you recall -- well, before I get to that, did

1 you know Rebeca Raudry?

2 A. Yes.

3 Q. And who is Rebeca Raudry?

4 A. I had known her as his girlfriend.

5 Q. Did you ever socialize with her?

6 A. At some events; at work, holiday parties, a
7 little bit outside of work. I ran into her once at a
8 supermarket. Not really after work with him.

9 Q. Did you know her well?

10 A. No.

11 Q. Did you ever discuss with Thomas the situation
12 where a woman came into the restaurant and caused him
13 some discomfort, some anxiety?

14 A. Not until the night I went over to his house.

15 Q. Okay. Tell me about this situation where a woman
16 came into the restaurant. What did he say and what
17 did -- how did he explain the situation where a woman
18 came into the restaurant and caused him to -- some
19 anxiety?

20 A. That a girl had come into the restaurant, goes
21 into the bar, ranting and raving that he was the father
22 of her child and that he needed to pay child support,
23 and basically caused a scene at the restaurant.

24 Q. Now, you worked at the restaurant then, right?

25 A. Uh-huh. Correct.

1 Q. Is that something -- well, first of all, did you
2 witness that?

3 A. No, I did not.

4 Q. Is it something that you think would have been
5 noteworthy among the employees?

6 A. Yes.

7 Q. Did you ever hear about it from anybody else?

8 A. No.

9 Q. So you said this happened in -- this happened the
10 night that you went to his house?

11 A. Yes.

12 Q. Okay. We're kind of -- we're going to talk about
13 that right about now.

14 A. Okay.

15 Q. During the time period that we've been talking
16 about -- and I know dates are hard for you, so I won't
17 try to pin you down.

18 But did you receive a telephone call from
19 Thomas at a time and on a particular night when he was
20 in some distress?

21 A. Actually, I called him that night.

22 Q. Okay. What made you call him?

23 A. I hadn't seen him in a while and I hadn't heard
24 anything from him and I thought it was time of touch
25 base to see what was going on.

1 Q. Okay. And when you got ahold of him, did he tell
2 you where he was?

3 A. Yes.

4 Q. Where was he?

5 A. He was at his apartment.

6 Q. And did he seem upset?

7 A. He was very short on the phone.

8 Q. What did he tell you?

9 A. I asked how he was doing. He said he wasn't
10 doing that good. And he asked if I could come over and
11 I said sure. And he said, "Well, just to warn you,
12 there's police at my apartment, outside," and I asked
13 what for and he said he's being accused of murder.

14 Q. Did he give you any more details other than that?

15 A. Not over the phone.

16 Q. Okay. So what did you do?

17 A. I said, "I'll go buy the beer," and I grabbed a
18 case of beer and I went over there.

19 Q. Where did you live, by the way?

20 A. I lived in Trophy Club.

21 Q. Minutes -- in minutes how far -- how far was --
22 I'm sorry. It's been a long day for me, too.

23 A. Probably about eight.

24 Q. About eight minutes away?

25 A. Eight minutes away.

1 Q. So not very far?

2 A. No.

3 Q. So you stopped, got some beer, went to pick him
4 up, correct?

5 A. Yes.

6 Q. And what did you do then? When you picked him
7 up, where did y'all go?

8 A. Actually we stayed at his apartment.

9 Q. Okay.

10 A. We went up to his apartment and we started
11 talking about what was going on.

12 Q. Were there police in the parking lot?

13 A. Yes.

14 Q. Did they question you as you went in?

15 A. No.

16 Q. So you sat down at his apartment and had a few
17 beers?

18 A. Uh-huh.

19 Q. And over the course of those beers, how did he
20 feel but the situation that he had already alluded to?

21 A. He said that he was being accused of murdering a
22 girl, that she said that he was the father of this child
23 and that he wasn't, and that the baby died, too, that
24 they were questioning him all day and that he didn't
25 know what he should do.

1 Q. Did you have any advice for him?

2 A. Well, since he was military, since he worked with
3 military, I told him he should get the military to
4 advise him, get him a lawyer.

5 Q. This woman that was killed, he told you that she
6 was -- did he say anything about her and him?

7 A. He said that when he and Rebeca had a split-up,
8 that he dated that girl for a while, but he said he
9 never had any sex with her or anything.

10 Q. He said that he and Rebeca had broken up for a
11 while and during that period of time he dated this
12 woman?

13 A. Yes.

14 Q. But that he never had sex with her?

15 A. Yes. I asked if there was any chance it was his
16 child and he said, "No, I've never had sex with her."

17 Q. Did you ask him where he was at the time of the
18 killing?

19 A. Yes, I did.

20 Q. What did he tell you?

21 A. He told me he was in the area that it happened,
22 at a friend's house.

23 Q. He was in the area --

24 A. Uh-huh.

25 Q. -- of the killing?

1 A. Of the killing, yes. It was in Arlington.

2 Q. But he was at where?

3 A. At a friend's house.

4 Q. Did he tell you whether or not he told the police
5 that story?

6 A. I actually asked if he told them whose house he
7 was at and he said no.

8 Q. Did that strike you as strange?

9 A. Yes.

10 Q. Why?

11 A. Because if I was going to be accused of murder, I
12 would be telling every single name I could think of that
13 happened that night.

14 Q. When you -- when he said that he didn't tell the
15 police where he had been, whose house he had been at --

16 A. Right.

17 Q. -- did he tell -- did he give you a reason why?

18 A. He said it would be his words -- word against
19 theirs.

20 Q. After that -- well, after y'all finished drinking
21 your beers that night, did you go anywhere?

22 A. Took him over to our house, my house.

23 Q. And I'm sure you were perfectly sober enough to
24 drive?

25 A. I was close.

1 Q. It was just around the corner, right?

2 A. Yes, eight minutes. Uh-huh.

3 Q. Well, so did -- he spent the night at your house
4 that night?

5 A. Yes, he did.

6 Q. The next day was there any more conversation
7 about this topic?

8 A. There wasn't. No, there wasn't any conversation
9 about that -- that topic. Excuse me. It was pretty
10 much over with at that time.

11 Q. Did you ever talk to him about the situation
12 again?

13 A. No.

14 Q. Are you one of his Golden Tee buddies?

15 A. Actually, we played Big Buck Hunter.

16 Q. Big Buck Hunter, same type of game -- well, it's
17 a --

18 A. Yeah.

19 Q. -- big console game?

20 A. Console game.

21 Q. Do you know if it's made by the same company?

22 A. No, I did not know that.

23 Q. After that period -- after that night when he
24 spent the night at your house, did your relationship
25 with him as a friend continue on as before or did it

1 change?

2 A. Actually, I really never saw him after that.

3 Q. Did you continue working at Truluck's?

4 A. Yes.

5 Q. Did he quit shortly after that?

6 A. Yes. I don't know if he quit or if it just
7 ended.

8 Q. In any event, he was no longer there?

9 A. Yes.

10 Q. I appreciate it.

11 MR. ROUSSEAU: I'll pass the witness, Your
12 Honor.

13 CROSS-EXAMINATION

14 BY MR. MOORE:

15 Q. Mr. Armistead, if a prosecutor ever ask you if
16 you have been drinking and driving, you can take the
17 Fifth Amendment if you want to. I'll advise you of
18 that.

19 A. I was told to be honest, so...

20 Q. I understand.

21 You no longer work at Truluck's. When did
22 you quit Truluck's and go to Shady Valley?

23 A. I quit Truluck's about a year and four months ago
24 to work a Trophy Club Country Club and I moved from
25 there about four months ago.

1 Q. Okay. So you're back -- you're -- pretty much
2 your background is in the service industry?

3 A. Yes, sir.

4 Q. And Truluck's is what they call a fine-dining
5 restaurant, correct?

6 A. Yes, sir.

7 Q. And that means it costs a lot of money to eat
8 there, right?

9 A. Yes.

10 Q. And it's comparable to, say, a Del Frisco's or
11 Ruth Chris steakhouse, those kinds of places?

12 A. Yes, comparable.

13 Q. You're going to spend several hundred dollars if
14 you go out there to eat, especially if you drink?

15 A. Yes.

16 Q. And so when you testified earlier about hearing
17 about this disturbance that somebody made in the
18 restaurant, you didn't yourself see that, you just heard
19 that from Thomas, is that the way I'm getting it?

20 A. Yes.

21 Q. Okay. And this was the same night that you
22 grabbed the case of beer and went over there to visit
23 with him?

24 A. That I heard the story, yes.

25 Q. Okay. And if I understand you correctly, you had

1 just -- you had not seen -- well, let me make that a
2 little clearer.

3 On March 21st of 2011 is when y'all had this
4 conversation and he spent the night. Would that be
5 fair?

6 A. Yes.

7 Q. And you had not seen him at Truluck's or outside
8 of Truluck's for how long before that?

9 A. Probably for a couple of weeks. But for like a
10 month and a half it would be less and less. As opposed
11 to five days, it would go down to three days, then two.
12 And just he'd give up shifts when he could.

13 Q. And prior to that, you had been friends and
14 socialized with him, correct?

15 A. Yes.

16 Q. And had met Rebeca Raudry?

17 A. Yes.

18 Q. How many times had you been around her?

19 A. Probably about three or four.

20 Q. And what kind of situation were those?

21 A. Two them were holiday parties. One of them was
22 at Truluck's, she came by. Oh, and we also took her out
23 on the boat once.

24 Q. Okay. You have a boat?

25 A. Yes.

1 Q. On Lake Grapevine?

2 A. It's parked at my house right now.

3 Q. Okay.

4 A. But that's where we took it out, yes.

5 Q. Did you have a -- did you get to know her well
6 enough to form any kind of an opinion about her as a
7 person?

8 A. She seemed like a nice person, but we didn't
9 really have a one-on-one conversation. It was always --

10 Q. Okay. Well, when you called Thomas on March 21st
11 of 2011, had you already heard about the killings in
12 Arlington?

13 A. No.

14 Q. Hadn't heard on the news or read in the paper or
15 anything?

16 A. No. I was actually at work that night and I
17 called after work, so...

18 Q. Just kind of a coincidence that that is when you
19 decided, hey, I'm going to call old Thomas and see what
20 he's been up to?

21 A. Yes.

22 Q. Okay. And he asked you to come over and grab
23 some beer and you went there and you saw cops in the
24 parking lot of his apartment complex, correct?

25 A. Yes.

1 Q. Were they in marked police units?

2 A. Yes. Lights were on.

3 Q. I'm sorry?

4 A. The lights were on on the police units.

5 Q. Okay. How many of them were there?

6 A. I want to say I spotted two, I believe.

7 Q. Where were they?

8 A. Out on the parking lot, parked.

9 Q. Just sitting there?

10 A. Yes.

11 Q. Okay. Did you happen to talk to either of the
12 police officers?

13 A. No.

14 Q. Did that raise any red flags in your mind?

15 A. No, not really.

16 Q. Okay. Up until then had Thomas told you anything
17 before you got there?

18 A. He told me that he was being accused of murder.

19 Q. Okay. And he told you that almost the entire day
20 he had spent with the Arlington detective being
21 questioned about it?

22 A. Correct.

23 Q. Did he ever -- well, let me ask you this.

24 I guess he felt, and maybe you felt, that
25 y'all were good enough friends to have you over to

1 discuss this pretty traumatic event. Wouldn't you say?

2 A. Yes.

3 Q. Felt like you were somebody that he was
4 comfortable being around and talking to?

5 A. Correct.

6 Q. Comfortable confiding in?

7 A. Correct.

8 Q. Did he ever admit any participation in the murder
9 of Mechelle Gandy or her son?

10 A. No.

11 Q. In fact, you were the one that told him that he
12 might ought to get a lawyer?

13 A. Yes.

14 Q. Why would you tell him that?

15 A. Because if you're being accused of murder, that's
16 what you would do. I mean, that's the first thing I
17 would do.

18 Q. That makes sense, doesn't it?

19 A. Yes.

20 Q. And so this conversation that you had with him,
21 he never admitted any participation, but he did say
22 that -- he'd mentioned he'd never had sex with this
23 woman, correct?

24 A. Correct.

25 Q. You did not -- in your prior socialization and

1 knowing Thomas before March 20th or 21st of 2011, had he
2 ever mentioned Mechelle Gandy or a possible son by her?

3 A. No.

4 Q. Never had come up?

5 A. No.

6 Q. Never talked about how she was harassing him or
7 wanting child support from him?

8 A. No.

9 Q. And he told you that he was in the area at a
10 friend's house but didn't tell you who the friend's name
11 was?

12 A. Yes.

13 Q. Did he tell you that he cooperated with the
14 police?

15 A. Yes.

16 Q. Did he tell you that he left some clothes with
17 the police?

18 A. I don't remember that.

19 Q. Okay. Did he tell that you he let them search
20 his apartment?

21 A. Yes.

22 Q. And that was the very apartment that you were in,
23 wasn't it?

24 A. Yes.

25 Q. Did you notice anything amiss, awry, in the

1 apartment?

2 A. No, because I hadn't been over before then.

3 Q. But basically he told you that he cooperated
4 fully with them?

5 A. Yes.

6 Q. And you took him to your house to spend the
7 night. And what happened the next day?

8 A. Nothing. Pretty much that morning he left and we
9 didn't see or hear from him again.

10 Q. Okay. He didn't have a car. How did he get --

11 A. Well, I drove him back to his apartment.

12 Q. Okay. That's what I was wondering. You gave him
13 a ride back to his apartment?

14 A. Yes.

15 Q. Dropped him off and might have said, "See you
16 later," and have never spoken to him since?

17 A. Yes.

18 Q. Okay. Well, thank you, Mr. Armistead. I
19 appreciate it.

20 MR. MOORE: I'll pass the witness.

21 REDIRECT EXAMINATION.

22 BY MR. ROUSSEAU:

23 Q. I forgot to ask you something, sir. You said you
24 had been out in a boat with Thomas and Rebeca?

25 A. Yes.

1 Q. Was it summertime?

2 A. Yes.

3 Q. Skiing, that sort of thing?

4 A. Just out on the boat, just tubing, I think. I
5 don't remember if we tubed or not. I don't ski.

6 Q. Everybody wearing swimsuits and T-shirts, that
7 sort of thing?

8 A. Yes.

9 Q. During that day or any other time, do you
10 remember the Defendant ever complaining about any
11 chronic skin condition, makes him scratch all the time?

12 A. No, not that I can think of.

13 Q. Did he ever tell you, "I have eczema"?

14 A. Not that I recall.

15 Q. Do you know what eczema is?

16 A. I know it's a skin condition.

17 Q. So when you were around him outside of work on
18 occasions, would he sometime be wearing short-sleeved
19 shirts?

20 A. Yes.

21 Q. Did you notice him breaking out in any big red
22 welts or anything like that when he was wearing
23 short-sleeved shirts?

24 A. No.

25 Q. Did he -- in your experience, at least in the

1 summertimes, away from the job, would he wear shorts?

2 A. It would always be after work that we'd hang out,
3 so it was always no shorts. So...

4 Q. Did he always wear a hoodie, like, you know, a
5 sweatshirt with a hood on it, even in the summertime, to
6 keep his skin from breaking out when it was exposed to
7 the air?

8 A. No.

9 Q. That's news to you?

10 A. Yes.

11 MR. ROUSSEAU: That's all I have.

12 THE COURT: Anything else?

13 MR. MOORE: I have no other questions,
14 Judge.

15 THE COURT: Does this witness need to remain
16 on call?

17 MR. MOORE: I'm sorry?

18 THE COURT: Does this witness need to remain
19 on call?

20 MR. MOORE: Probably not.

21 MR. ROUSSEAU: We can find him if need be,
22 Judge.

23 THE COURT: All right. Sounds good. Then
24 I'm going to excuse you from the proceedings, unless
25 someone calls you in the next couple of weeks and says

1 they forgot to ask you something or something developed
2 they have more questions. Just remember those
3 instructions until you get or read it from a reliable
4 source the jury has reached a verdict.

5 THE WITNESS: Thank you.

6 THE COURT: Thank you for coming in.

7 (Witness excused from courtroom)

8 MR. ROUSSEAU: May we approach, Judge?

9 THE COURT: Yeah.

10 (Discussion at the bench, off the record)

11 MR. ROUSSEAU: We'll call Tim Jopson.

12 (Witness takes the stand)

13 THE COURT: All right. Will you state your
14 name again for Miss Karen and also for the jurors,
15 please, sir.

16 THE WITNESS: Timothy Ryan Jopson.

17 THE COURT: Mr. Jopson, you have been in
18 here previously. I swore you in, placed you under the
19 rules, asked you to return when summoned. And you
20 understand all those rules and things apply until the
21 trial is over; is that right, sir?

22 THE WITNESS: It is, sir.

23 THE COURT: And remember, you know, make
24 sure question and answers, a pause between each, so she
25 can write it all down. Do you remember that part?

1 THE WITNESS: Yes, sir.

2 THE COURT: All right.

3 Kevin.

4 MR. ROUSSEAU: Thank you, Judge.

5 TIMOTHY JOPSON,

6 having been first duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. ROUSSEAU:

9 Q. How are you doing today, sir?

10 A. Doing well.

11 Q. You are Timothy Jopson; is that correct?

12 A. I am.

13 Q. You've been here all day today. I appreciate
14 that. Sorry to make you wait.

15 A. It's all right.

16 Q. I need to ask you a few questions, sir. You
17 understand the nature of the case that you're here to
18 talk about, correct?

19 A. I do.

20 Q. What do you do for a living, sir?

21 A. I manage restaurants.

22 Q. And is that what you're doing right now?

23 A. Yes, sir.

24 Q. What -- which restaurant do you manage?

25 A. Red Lobster, currently.

1 Q. How long have you been in the restaurant
2 business?

3 A. Nine years.

4 Q. How old are you, sir?

5 A. Twenty-seven.

6 Q. Are you from this area?

7 A. Majority raised in DFW, yes, sir.

8 Q. I'm going to ask you about your relationship with
9 a woman named Mechelle Gandy. Did you know Mechelle
10 Gandy?

11 A. I did.

12 Q. How did you come to know her?

13 A. We lived on streets next to each other.

14 Q. Is that where you met, at her home or...

15 A. Actually met her one day running.

16 Q. You were out running?

17 A. Yeah.

18 Q. And where was she?

19 A. In her front yard.

20 Q. Do you recall what street that would have been
21 on -- well, how about this. What street did you live
22 on?

23 A. High Plains Court and she lived on Daniel Street.

24 Q. On Daniel.

25 And you saw her outside?

1 A. Uh-huh.

2 Q. Did you just stop and talk?

3 A. We had seen each other in passing before, never
4 spoke, and then struck up conversation.

5 Q. Do you recall what -- approximately when this
6 would have been? Well, let me help you a little bit.

7 You understand that she was killed,
8 murdered, on March 20th of 2011?

9 A. Uh-huh.

10 Q. So backtracking from there, if you can ballpark
11 it, if that helps you.

12 A. 2008.

13 Q. Okay. So you've known her for a good little
14 while?

15 A. Uh-huh.

16 THE COURT: You've got to say yes or no
17 because uh-huhs are --

18 THE WITNESS: I understand.

19 THE COURT: She can't write that down.

20 Q. (BY MR. ROUSSEAU) Characterize for us, if you
21 would, your relationship with her. How would you
22 describe it?

23 A. She was a friend of mine.

24 Q. Right from the start, from 2008 on?

25 A. Yeah.

1 Q. How often would you see her?

2 A. Once a week, because she worked at the gas
3 station near my house, at least. I would stop in there
4 for drinks and anything else.

5 Q. So you would at least see her once a week?

6 A. At the beginning, yes.

7 Q. After that how frequently would you see her?

8 A. Once every few weeks, every other month, every
9 couple months.

10 Q. Okay. So you saw her at work once a week or so
11 and then you would see her outside of work on occasion?

12 A. On occasion, yes, sir.

13 Q. When you would see her outside of work, where
14 would these -- I'll call it a meeting for lack of better
15 a word. Where would these meetings take place?

16 A. Initially at her home on Daniel, until she moved
17 to North Arlington and then there.

18 Q. When she lived on Daniel, whose -- do you recall
19 if anyone else lived there, or do you know?

20 A. I don't know.

21 Q. Did you -- were you under the impression that she
22 lived there alone?

23 A. No. I figured someone else lived there because
24 she did have a picture of them in the house.

25 Q. Oh, so you went actually inside the house?

1 A. Yes, sir.

2 Q. But did you ever see anyone else there?

3 A. No, sir.

4 Q. So you knew her for approximately three years?

5 A. Two and a half to three years, yes, sir.

6 Q. Two and a half to three years. So sometime in
7 '08, okay.

8 And during that time did you ever become
9 involved in a dating relationship with her?

10 A. No, sir, not dating.

11 Q. And by dating, I mean where you actually go out
12 together, you know, to dinner, to a movie, to a bar,
13 whatever, but you go there as a couple or you'd meet
14 there?

15 A. I understand. No, sir. Never.

16 Q. Okay. When you would socialize with her --
17 that's a better word than "meeting". There you go.

18 When you would socialize with her, where
19 would it typically be, at her home?

20 A. Yes, sir.

21 Q. And you said at first it was in the house on
22 Daniel?

23 A. Yes, sir.

24 Q. And then later it was at a house -- at an
25 apartment in North Arlington?

1 A. Yes, sir.

2 Q. Okay. Now, are you familiar with the apartment
3 that was burned?

4 A. Yes, sir.

5 Q. Was it that apartment?

6 A. Yes, sir.

7 Q. Were there -- was there ever any other home that
8 you would socialize with her at?

9 A. No, sir.

10 Q. So was your relationship with her -- you've said
11 you were friends. Was there ever a sexual component to
12 the relationship?

13 A. There was a physical aspect.

14 MR. MOORE: I'm sorry, I didn't hear.

15 THE WITNESS: There was a physical aspect.

16 Q. (BY MR. ROUSSEAU) Does that mean that you did,
17 in fact, have sex with her?

18 A. Oral sex.

19 Q. Okay. Did you ever have intercourse with her?

20 A. Not that I can recall.

21 Q. That's, frankly, something I think you might
22 remember. And I'm not trying to give you a hard time.
23 But is that something you think you would remember, if
24 you had intercourse with her before?

25 A. I believe so.

1 Q. Okay. So do you think you did?

2 A. I do not.

3 Q. But did you have oral sex with her?

4 A. Yes, sir.

5 Q. And frankly, I -- and I don't mean to embarrass
6 you. Are you married, sir?

7 A. I am, sir, now.

8 Q. And is -- just by way of explanation, because you
9 seem a little reluctant to answer this, so...

10 Were you -- the woman that you're married to
11 now, were you engaged to her back then?

12 A. I was.

13 Q. And when you -- you ultimately did talk to the
14 police at one point in time; is that correct?

15 A. Yes.

16 Q. And were you quite reluctant to let -- for this
17 information about your relationship with Mechelle to get
18 out?

19 A. It was a little less than flattering, yes.

20 Q. And it's personally embarrassing because of your
21 relationship with your then fiancée, correct?

22 A. Yes.

23 Q. All right. Well, for that reason I do appreciate
24 you doing this and unfortunately it is necessary.

25 A. Yes.

1 Q. So I need to turn your attention to an incident
2 that happened, oh, I don't have an exact timeframe, but
3 let's say in the month or so before Mechelle was killed.
4 Was there a time when you were supposed to go to her
5 house?

6 A. Yes, sir.

7 Q. And did you, in fact, go over there?

8 A. I did.

9 Q. Was it prearranged, that is I -- prearranged, I
10 mean she was expecting you?

11 A. We had discussed it in prior weeks, but not
12 prearranged as far as that day was concerned.

13 Q. Okay. Well, characterize it for me then. Just
14 going to drop by whenever you got the chance?

15 A. I was getting ready to go out of town and she
16 said, "Come see me before you go out of the town, "and
17 that was the time I had a chance.

18 Q. Do you recall where you were going out of town?

19 A. Kansas.

20 Q. Why were you going to Kansas?

21 A. Bowling tournament.

22 Q. Do you do a lot of bowling?

23 A. I do quite a bit of bowling, yes, sir.

24 Q. Is it more than a hobby for you?

25 A. I make money from it, so I consider it a job at

1 times.

2 Q. So you're a professional bowler?

3 A. No, sir.

4 Q. Hustler?

5 A. You could say that.

6 Q. I'm not trying to accuse you of anything, by the
7 way.

8 A. Okay.

9 Q. It's okay if you make a little money playing --
10 bowling.

11 What was in -- going on in Kansas?

12 A. There was a bowling tournament there, the Wichita
13 Open, every year around the same time.

14 Q. Give us an idea, how big is that bowling
15 tournament?

16 A. It goes on for three months, every weekend
17 bowling all day, hundreds of people, thousands of people
18 from across the country are there to bowl.

19 Q. Does it all take place there or are there
20 satellite events that count towards that?

21 A. It all took -- it's all taking place in Wichita.

22 Q. Did you go to Wichita to take part in this
23 tournament?

24 A. I did.

25 Q. Did you go on one occasion, I mean, for just one

1 visit up there or did you go -- have to visit more than
2 one time since it's a three-month-long tournament?

3 A. I bowled two squads. I bowled two weekends.

4 Q. Did you stay the whole time --

5 A. I came --

6 Q. -- in Wichita?

7 A. I came back home, worked, and then a few weeks
8 later went back again.

9 Q. Okay. So you bowled and then I guess you did
10 well enough to advance?

11 A. I didn't do well at all. That's why I went back.

12 Q. Okay. All right. I'm a little ignorant on the
13 way bowling tournaments work.

14 A. It's okay.

15 Q. Anyway, you had --

16 A. Choose to --

17 Q. -- downtime and then you returned?

18 A. Yes, sir.

19 Q. Do you recall which of these trips to Kansas,
20 before which of these trips it would have been that you
21 went by Mechelle's house?

22 A. The -- both of them, actually.

23 Q. Both of them. Okay. Well, one of them did you
24 go in and spend time with Mechelle?

25 A. A short time, yes, sir.

1 Q. What about the other one?

2 A. No.

3 Q. Okay. Well, let's talk about one time when you
4 went over there with -- you had someone accompanying you
5 over there?

6 A. Yes, sir.

7 Q. Who was that? Who went with you?

8 A. My younger brother.

9 Q. Your younger brother?

10 A. Uh-huh. Yes, sir.

11 Q. What is his name?

12 A. Joshua Collins.

13 Q. Joshua?

14 A. Collins.

15 Q. Collins?

16 A. Yes, sir.

17 Q. When you went over there, did you give her a call
18 before you got there?

19 A. No, sir.

20 Q. Okay. How would you -- would it be your custom
21 to just show up, knock on her door, or would you let her
22 know you were coming?

23 A. Typically that was the way it went.

24 Q. Just knock on her door?

25 Yes?

1 A. Yes, sir.

2 Q. And I say that because she has to write it down.

3 A. I understand.

4 Q. When you stopped by with your brother, did you go
5 into her house?

6 A. I did.

7 Q. Did you go into her house immediately?

8 A. No, sir.

9 Q. Why not?

10 A. I was talking to my brother, getting ready to go
11 inside and tell him just to wait for a little bit and I
12 would be out.

13 Q. Okay. Was he not going to go in with you?

14 A. No, sir.

15 Q. When -- was there something that slowed you down
16 from going in?

17 A. No, sir.

18 Q. Okay. Did you see anyone else at the apartment?

19 A. I saw somebody exiting the general area of her
20 apartment, yes, sir.

21 Q. And the general area of her apartment, I mean
22 we've seen photographs, it's fairly easy to tell if
23 someone is leaving her apartment, correct?

24 A. Yeah. I was parked in front of the windows to
25 the left side of her door. From there there's a

1 staircase above her apartment and I saw a gentleman in a
2 white T-shirt leaving that area.

3 Q. Okay. Did you have any contact with that person?

4 A. No, sir.

5 Q. During the time -- before you went in, did you
6 telephone her at all?

7 A. I don't believe so, sir.

8 Q. Okay. How did you make contact with her that
9 night? Did you knock on the door?

10 A. Yes, sir.

11 Q. Did you -- when you saw this person leaving --
12 first of all, is there a light out front of her
13 apartment?

14 A. Yes, sir.

15 Q. Were you able to get a -- just a general
16 description of this person? You know, age, race, that
17 sort of thing?

18 A. Yes, sir, I believe so.

19 Q. And what would that have been?

20 A. Medium build, short hair, dark hair. There was a
21 light race, maybe not, but most likely Hispanic or
22 mixed, lighter tone than my tone maybe, but a little
23 lighter. And it was, I think, midnight or so, late that
24 night.

25 Q. So did you have any communication with that

1 person?

2 A. No.

3 Q. When you -- after that person -- well, did you
4 see that person actually leave?

5 A. I did.

6 Q. Leave the premises?

7 A. No, sir. I believe I saw him get into his car, a
8 vehicle.

9 Q. Uh-huh.

10 A. And that was it. I went inside.

11 Q. When you went inside, was Mechelle there?

12 A. She was.

13 Q. Did y'all talk?

14 A. We did.

15 Q. Did she express any type of concern to you about
16 your showing up that night or about this individual,
17 that you might have had contact with?

18 A. She --

19 Q. At least in her mind you might have had contact
20 with?

21 A. Well, she asked why I dropped by and I told her I
22 was going out of town and she said, "Oh, how long have
23 you been here?" I told her just a few minutes. And
24 then that was pretty much it. She asked -- that was it,
25 how long I had been outside.

1 Q. Did you hang out for a while?

2 A. I hang out -- I hung out for a few minutes.

3 Q. Okay. Did you have any sexual relations with her
4 that night?

5 A. No, sir.

6 Q. Was her mood towards you different than it was on
7 other occasions?

8 A. Yes, sir.

9 Q. Did she seem a little angry?

10 A. Yes, sir.

11 Q. And was she angry because you had just basically
12 shown up that night?

13 A. I don't know, sir.

14 Q. Did she tell you that she didn't appreciate you
15 dropping by that night?

16 A. She asked me why I dropped by.

17 Q. Okay. And what did you say?

18 A. To see her before I went out of town.

19 Q. Was there some communications between you later
20 where she called you and discussed the fact that you had
21 dropped by that night?

22 A. I don't believe so, sir.

23 Q. Do you ever recall her telling you to not do that
24 anymore, to not just show up like that?

25 A. I do, sir, actually.

1 Q. Was there ever a time when she accused -- well,
2 maybe not accused you, but characterized your visit to
3 her that night as harassing, at least in her mind?

4 A. To me, no, sir.

5 Q. Well, did you go bowling?

6 A. I did.

7 Q. And I want to move ahead now to the time you said
8 you dropped by her house, both times, before you went to
9 Kansas?

10 A. Uh-huh.

11 Q. Was that the first time or the second time?

12 A. This was the second time.

13 Q. The first time had there been any discomfort over
14 your dropping by?

15 A. No, sir.

16 Q. Everything was fine?

17 A. Yes, sir.

18 Q. Did you ever see her son?

19 A. Once or twice.

20 Q. Did you meet him? I know he's a baby, but did
21 you see the kid?

22 A. I saw him. I did not meet him.

23 Q. Okay. What is -- we'll get to that in a minute.

24 So you went on to Kansas, correct?

25 A. Yes, sir.

1 Q. How did you do that second trip?

2 A. I did well.

3 Q. I want to turn your attention to the weekend that
4 concluded on Sunday, March the 20th. All right?

5 A. Yes, sir.

6 Q. Do you recall, first of all, Sunday, March the
7 20th, when that day started, were you still in Wichita,
8 Kansas?

9 A. I was, sir.

10 Q. And where did you -- at some point in time did
11 you leave Wichita, Kansas?

12 A. I did, sir.

13 Q. And where did you head to when you left Wichita?

14 A. Moore, Oklahoma.

15 Q. Were you traveling alone?

16 A. No.

17 Q. Who was with you?

18 A. Brandon Chapa, Jake Rigdon, Jana -- couldn't tell
19 you her last name. And in a vehicle separate from us,
20 my father, Leroy Willis, and Chris Vanatwep, and I
21 believe that's all.

22 Q. So there was a group of you traveling in two
23 vehicles?

24 A. Yes, sir.

25 Q. And I got Brandon Chapa, Jake Rigdon, Anna, last

1 name unknown?

2 A. Jana.

3 Q. Jana. I apologize. And the fourth name, I'm
4 sorry, I didn't get?

5 A. Chris Vanatwep.

6 Q. Okay. Was there one other person? Your father?

7 A. Leroy Willis.

8 Q. Leroy Willis?

9 A. Yes.

10 Q. Are you the only bowler in the bunch?

11 A. No, sir.

12 Q. Do all of you bowl?

13 A. Yes, sir. That weekend my father, Chris and
14 myself bowled.

15 Q. Does Jana Savage, does that name ring a bell?

16 A. That is her last name, yes, sir.

17 Q. So you left Wichita and you were headed -- is
18 Moore, Oklahoma south of Wichita?

19 A. Yes.

20 Q. May sound silly. But Oklahoma is south of the
21 Kansas, correct?

22 A. Yes, sir.

23 Q. And Moore, Oklahoma, where is that? Is there a
24 big city that it's next to?

25 A. Oklahoma City.

1 Q. Is it part of the Oklahoma --

2 A. Suburb.

3 Q. -- metropolitan area?

4 A. I believe so. It's about 30 -- 20 to 30 minutes
5 south of a drive. It's been a while since I've been
6 there.

7 Q. All right. Are you still in the city, though?

8 A. Yes, sir.

9 Q. Like a suburb?

10 A. To an extent, yes, sir.

11 Q. Okay. Is there something in Moore, Oklahoma that
12 you wanted to visit?

13 A. Casino.

14 Q. Did you stop at the casino?

15 A. Yes, sir.

16 Q. Did you go into the casino?

17 A. Yes, sir.

18 Q. Did you stay at the casino that night?

19 A. I did, sir.

20 Q. Who else stayed at the casino that night?

21 A. Brandon Chapa, Jana Savage and Jake Rigdon.

22 Q. And your father, Leroy Willis, and Chris Vanatwep
23 left?

24 A. Yes.

25 Q. Did you have your phone with you that night?

1 A. I did, sir.

2 Q. Do you recall your telephone number?

3 A. 817-247-4045.

4 Q. And did you have that -- do you still have that
5 number today?

6 A. Yes.

7 Q. Same number you had then?

8 A. Yes, sir.

9 Q. Is that telephone in your name?

10 A. No, sir.

11 Q. Whose name is that in?

12 A. Currently or then?

13 Q. I guess then.

14 A. Then Brandon Chapa.

15 Q. Why is that?

16 A. We're best friends. We got on a cell phone plan
17 together to save money.

18 Q. Okay. Do you pay your portion of it?

19 A. I did, yes, sir.

20 Q. He still your friend?

21 A. Oh, yes, sir.

22 Q. Did you drink that night?

23 A. Yes, sir.

24 Q. And at the casino?

25 A. Yes. Yes, sir.

1 Q. Were you gambling, too?

2 A. Yes, sir.

3 Q. Did you win?

4 A. No, sir.

5 Q. Did that make you drink more?

6 A. No, sir. I don't need a reason to drink more.

7 Q. So you were drinking a fair amount that night?

8 A. Had a good weekend.

9 Q. Do you recall receiving a telephone call
10 sometime, you know, after midnight or sometime in that
11 neck of the woods --

12 A. Yes, sir.

13 Q. -- from a police officer in Arlington, Texas?

14 A. Yes, sir.

15 Q. Run that down for us. Tell us how that came to
16 be and, you know, just walk us through it a little bit.

17 A. I was sitting at a blackjack table. I probably
18 had had a number of drinks, upwards of 10 to 15-plus,
19 throughout the evening.

20 And late into the night I got a phone call
21 from a private or blocked number, I believe it was. I
22 figured it was another prank call. At the time I
23 received some from friends and nonfriends. I was
24 inebricated. I was in a loud casino with music. Slot
25 machines going. I couldn't really hear the entire of

1 the conversation and didn't choose to exit to engage in
2 the phone call due to the nature that I thought it was.

3 Q. Do you recall getting a call and then actually
4 you returning that call?

5 A. I believe I may have returned a call, yes, sir.

6 Q. Okay. And I won't ask you about the intimate
7 details of the telephone conversation. But do you
8 remember actually talking to someone who identified them
9 self as a police officer?

10 A. I believe so, yes, sir.

11 Q. And were you polite during that conversation?

12 A. No, sir.

13 Q. Were you angry at having your --

14 MS. KEENE: Objection to leading, Judge.

15 THE COURT: Sustained.

16 Q. (BY MR. ROUSSEAU) What was your mood at having
17 your evening interrupted?

18 A. I was angry.

19 Q. Did you express that?

20 A. I believe I did.

21 Q. Do you think you might have used some profanity?

22 A. I don't hold back.

23 Q. Is that a "yes"?

24 A. Yes, sir.

25 Q. Now, when you got back to town, you -- well, let

1 me ask you, I'm getting ahead of myself a little bit.

2 You said -- you've already told us that you
3 spent the night there that night, correct?

4 A. Yes, sir.

5 Q. About what time of the day did you leave? Did
6 you leave the next day?

7 A. We left the next morning.

8 Q. Okay. About what time of day was that?

9 A. I believe 11:00 a.m.-ish, somewhere in that
10 ballpark, in the morning.

11 Q. Would that be a Monday morning?

12 A. Monday morning, yes, sir.

13 Q. During that -- did you drive straight back?

14 A. With the exception of stopping at McDonald's,
15 yes, sir.

16 Q. Did you have to work the next day?

17 A. Monday, no, sir.

18 Q. When you got back to town, did you become aware
19 of the fact that the police were interested in talking
20 to you?

21 A. I believe so, yes, sir.

22 Q. And at some point in time did you, in fact, go in
23 and sit down and have a conversation with a Detective
24 Stewart of the Arlington Police Department?

25 A. I don't recall his name, but I did go have a

1 conversation.

2 Q. Do you recall if he's an African-American
3 gentleman?

4 A. Bald, tall.

5 Q. Bald?

6 A. Yeah.

7 Q. And did you talk to Detective Stewart -- well,
8 you tell me.

9 Had there been some telephone conversations
10 between you and Detective Stewart before you showed up
11 for that meeting?

12 A. I believe we spoke on the phone for him to
13 explain to me the nature of needing my assistance or me
14 being present.

15 Q. And you were -- at that point did you kind of
16 realize how badly they did need to talk to you?

17 A. Yes, sir.

18 Q. Did you cooperate with them?

19 A. I believe so.

20 Q. Did you explain to Detective Stewart where you
21 had been?

22 A. Yes, sir.

23 Q. At the time of the killing, did you explain to
24 him where you had been?

25 A. Yes. I provided him with bank statements and

1 photographs and I think that was it.

2 Q. Tell me about the bank statements.

3 A. I had bank statements from my credit card
4 transactions in Kansas, from Saturday afternoon, I
5 believe, when I arrived, all the way until Sunday
6 afternoon when I left. And then I put the hotel room on
7 my credit card at the casino we stopped at and then,
8 also, withdrew \$800 from the ATM at the casino.

9 Q. Did you leave with more than that?

10 A. No, sir.

11 Q. Did you explain to Detective Stewart the nature
12 of your relationship with Mechelle?

13 A. Yes, sir.

14 Q. If I told you that in that interview you told
15 Detective Stewart that you had intercourse with Mechelle
16 one to two times, would that be a surprise to you?

17 A. No, sir. I used to drink quite a bit and do some
18 other things that would cause me maybe not to be
19 totally -- what is the word -- able to recall, maybe.

20 Q. Okay. So would you deny having told Detective
21 Stewart that you had sex with her one to two times?

22 A. No, sir.

23 Q. Would you deny telling Detective Stewart that on
24 the day after the incident that we talked about where
25 you went to her apartment, okay, that she called you and

1 said that she didn't want you to drop by anymore
2 unannounced?

3 A. No, sir.

4 Q. Okay. That would not -- you wouldn't dispute
5 that if I told you that that's in your interview?

6 A. No, sir.

7 Q. Okay.

8 MR. ROUSSEAU: Just a moment, Your Honor.

9 (Pause in proceedings)

10 MR. ROUSSEAU: May I approach, Your Honor?

11 THE COURT: Yes.

12 MR. ROUSSEAU: Judge, may we both approach
13 just a moment?

14 THE COURT: Yes.

15 (Discussion at the bench, off the record)

16 Q. (BY MR. ROUSSEAU) Mr. Jopson, I'm going to show
17 you what I've had marked as State's -- there's a few
18 documents here marked as State's Exhibits 237, 238, 239,
19 240, 241, and 242. Just take a minute, flip through
20 those and I'll ask you a question about them. All
21 right?

22 Had a chance to look at them?

23 A. I have.

24 Q. Do you recognize all those documents?

25 A. I do, sir.

1 Q. Are they all documents that you provided to
2 Detective Stewart?

3 A. Yes, sir.

4 Q. Now, I apologize just a moment. I want to ask
5 you about -- specifically about 241. This seems to be
6 some sort of publication; is that correct?

7 A. Yes, sir.

8 Q. Did you give this to Detective Stewart or did you
9 just tell him how to get it? I really want you to work
10 straight -- strictly from your memory.

11 A. I do not recall.

12 Q. Okay. Do you recall seeing this before?

13 A. I see it every Thursday.

14 Q. Oh, every Thursday?

15 A. Yes, sir.

16 Q. Okay. State's Exhibit No. 237 seems to be a
17 rather silly photograph. Does it fairly and accurately
18 depict you?

19 A. That weekend, yes, sir.

20 Q. Show you State's Exhibit No. 238. Is this the --
21 some of the banking records that you discussed
22 previously?

23 A. Yes, sir.

24 Q. State's Exhibit No. 239, is this a document
25 pertaining to the bowling tournament you've been talking

1 about?

2 A. Yes, sir.

3 Q. State's Exhibit No. 240, is this a document
4 showing the schedule of that same bowling tournament?

5 A. Yes, sir.

6 Q. State's Exhibit No. 241, is it a circular or a
7 publication of some, an article about that tournament?

8 A. Yes, sir.

9 Q. And State's Exhibit No. 242, what is that?

10 A. That's a hotel room, sir.

11 Q. A hotel room receipt?

12 A. Receipt, yeah.

13 Q. Thank you. And are these all the same documents
14 you've discussed previously?

15 A. Yes, sir.

16 Q. This hotel room receipt, Number 242, is this a
17 document -- well, how did you -- how did this come to be
18 in your possession?

19 A. I paid for the hotel room, and it's something
20 they give us upon checkout.

21 Q. So it's a receipt you get upon checkout?

22 A. Yes, sir.

23 Q. Is it a true and accurate copy of the original?

24 A. Yes, sir.

25 Q. Can you tell me what 239 actually is?

1 A. It's the Facebook page for the bowling
2 tournament.

3 Q. Okay. Does it refer to the --

4 A. The Wichita Southwest Bowling Open, Wichita,
5 Kansas.

6 Q. And is this something that would appear on your
7 screen if you were to go to the appropriate page?

8 A. Yes, sir.

9 Q. Okay. And now State's Exhibit 238, is this a
10 true and accurate copy of the original statement that --
11 banking statement that you gave to Detective Stewart?

12 A. Yes, sir.

13 Q. And does it reflect entries on your bank account?

14 A. Yes, sir.

15 MR. ROUSSEAU: I would offer State's 237,
16 238, 239, 240, 241, 242, subject to any objection by the
17 Defense.

18 MS. KEENE: Can I just ask this witness --
19 take him on voir dire for really one question?

20 THE COURT: Yeah.

21 VOIR DIRE EXAMINATION

22 BY MS. KEENE:

23 Q. Are these -- all of these exhibits, are these the
24 exhibits that you gave to Detective Stewart, ultimately?

25 A. Yes, sir -- yes, ma'am. My apologies.

1 Q. That's okay.

2 MS. KEENE: No objection.

3 THE COURT: All right. State's 237, 238,
4 which is a three-page document, 239, 240, 241, and 242,
5 all State's exhibits, all admitted.

6 (State's Exhibit No. 237 - 242 admitted)

7 MR. ROUSSEAU: Thank you, Judge.

8 May I publish using the ELM0?

9 THE COURT: Yes.

10 DIRECT EXAMINATION CONTINUES

11 BY MR. ROUSSEAU:

12 Q. This is State's Exhibit No. 242, correct, sir?

13 A. Yes, sir.

14 Q. I'm going to zoom in on it a little bit. It's
15 the Riverwind Hotel, 2901 Bankers Avenue, Norman,
16 Oklahoma, correct?

17 A. Yes, sir.

18 Q. All right. Slide over here to another place,
19 right in the middle. It's an arrival, 3/20/2011;
20 departure, 3/21/2011?

21 A. Yes, sir.

22 Q. And that's the receipt that you're given upon
23 checking out?

24 A. Yes, sir.

25 Q. Seems to have been printed a little later. Are

1 you sure -- is this the original that you got or is this
2 one you were able to obtain later? And I'm talking
3 about this date right up here, 3/30/2011. It appears to
4 be printed at a later date?

5 A. Yes, sir, it does. And it's not the original.

6 Q. Okay. But did you provide something like this to
7 Detective Stewart?

8 A. Yes, sir.

9 Q. Now I'm going to show you this one -- and I
10 apologize in advance.

11 A. Thank you.

12 MR. ROUSSEAU: Can you dim the lights just a
13 little bit, please.

14 (Pause in proceedings)

15 Q. (BY MR. ROUSSEAU) All right. And that -- I'm
16 reading right here at the bottom, 2011, Southwest --
17 77th Annual Southwest Tournament, Wichita, Kansas,
18 correct?

19 A. Yes.

20 Q. Now, what is going on in this photograph, sir?

21 A. Humor -- funniest photo contest.

22 Q. Okay. And that's, I take it, you --

23 A. Yes, sir.

24 Q. -- right there?

25 Okay. And I won't ask what this gentleman

1 is doing, but he seems to be winning?

2 A. He is.

3 Q. I want to show you State's Exhibit No. 238.

4 Could you find for me a portion on there where you used
5 the ATM? You said that it reflects a use of ATM at the
6 casino; is that correct?

7 A. I believe so, sir.

8 Q. If you find that, would you point it out for me,
9 please?

10 A. And I think this is...

11 Q. Let me see just a moment.

12 I will ask you about this top entry right
13 here, check card, Riverwind Hotel, Norman, Oklahoma, on
14 3/20, temporary merchant authorization. Is that when
15 you checked in, or do you recall?

16 A. I don't recall.

17 Q. Okay. And until we can figure it out a little
18 better, I'm not going to ask you any more questions
19 about it. Okay?

20 A. Okay.

21 Q. Did you -- at the time that Mechelle Gandy was
22 killed, which I'll represent to you was in the --
23 approximately the 10:00 o'clock hour, between 9:30,
24 10:00 o'clock, something around there, of March the
25 20th, 2011, where were you?

1 A. March 20th was what day, Sunday?

2 Q. Sunday.

3 A. I was at the casino.

4 Q. And was it shortly or a few hours after that that
5 you received that telephone call from the police officer
6 in Arlington?

7 A. Yes, sir.

8 Q. And did you remain at that casino -- were you at
9 that casino several hours before that incident -- before
10 that time?

11 A. Yes, sir.

12 Q. And did you remain at that casino throughout the
13 night?

14 A. Yes, sir.

15 Q. And were you with Brandon Chapa, Jake Rigdon,
16 Jana Savage at that casino?

17 A. Yes, sir.

18 Q. Did you have anything to do with killing of
19 Mechelle Gandy or her child, Asher Rion Olivas?

20 A. No, sir.

21 MR. ROUSSEAU: I'll pass the witness, Your
22 Honor.

23 THE COURT: Defense may cross.

24 CROSS-EXAMINATION

25 BY MS. KEENE:

1 Q. Mr. Jopson, my name is Joetta Keene --

2 MS. KEENE: Judge, I'm going to turn this
3 off, if that's okay.

4 THE COURT: Yeah.

5 MR. ROUSSEAU: I'll get it, Joetta.

6 Q. (BY MS. KEENE) My name is Joetta Keene and I
7 represent Thomas. You and I have never met, have we?

8 A. No, ma'am.

9 Q. You went and talked to Detective Stewart on March
10 the 24th; is that correct?

11 A. I don't recall.

12 Q. Does that sound right?

13 A. A couple of days I got back, yes, ma'am.

14 Q. And were you aware that the conversation you had
15 with Detective Stewart was video recorded?

16 A. I don't recall.

17 Q. Were you aware that it was recorded?

18 A. I don't recall.

19 Q. Have you had an opportunity to watch that
20 recording?

21 A. No.

22 Q. If at any point you feel like you need to watch
23 that, would you tell me and so we could let you watch
24 that recording to refresh your memory of what you told
25 Detective Stewart? Is that a deal?

1 A. I don't understand.

2 Q. Well, if at any point when I'm asking you
3 questions, if you feel that watching the video of you
4 talking to Detective Stewart would be helpful to you,
5 rather than you giving us inaccurate information, will
6 you just say, "I would like to watch my video," is that
7 fair?

8 A. That's fair.

9 Q. Do you understand why I'm saying that?

10 A. Vaguely.

11 Q. Okay. You said that you have a hard time with
12 your memory because of what sounded like a lot of
13 partying?

14 A. Yes, ma'am.

15 Q. Okay. And would you agree with me that the
16 things you told Detective Stewart on March the 24th of
17 2011, based on a memory that's been partied out, would
18 be more accurate than the things you're testifying to
19 three years later? Does that make sense?

20 A. It does.

21 Q. Okay. So that's why I'm asking you, if any of
22 the questions I have, if you think "I need to watch that
23 video to help me with my memory," will you just tell me
24 that?

25 A. Yes.

1 Q. Okay.

2 A. Okay.

3 Q. We all have a copy of your video. Okay?

4 A. Okay.

5 Q. Is that fair?

6 A. Yes, ma'am.

7 Q. All right. You recall telling Detective Stewart
8 that you met Mechelle at the 7-Eleven where she was
9 working?

10 A. I do not.

11 Q. Do you recall telling Detective Stewart that she
12 was working there and you were a patron and that's how
13 you met her?

14 A. I do not.

15 Q. Do you recall telling Detective Stewart that that
16 was about a year prior to her death?

17 A. I do not.

18 Q. Do you think that you did not tell Detective
19 Stewart that you met her at the 7-Eleven?

20 A. I'm sorry, once again.

21 Q. Do you believe that you told Detective Stewart
22 that you met her at the 7-Eleven?

23 A. I believe I did. You're asking me this question?
24 Yes, ma'am.

25 Q. And that's my point, is I don't want to just put

1 words in your mouth. Okay. I want you to just tell us
2 what the truth is. Okay?

3 A. Okay.

4 Q. And want you to tell us what the truth is based
5 on your memory as best you can. Okay?

6 A. I am.

7 Q. All right. And so what I'm asking you, do you
8 think you need to watch the videotape of you talking to
9 Detective Stewart?

10 A. No.

11 Q. Okay. Would it surprise you that you told
12 Detective Stewart that you met Mechelle while she was
13 working at the 7-Eleven?

14 A. No.

15 Q. Okay. Why would that not surprise you?

16 A. Because I meet people multi times.

17 Q. Okay. So you could just be mistaken on where you
18 actually met her?

19 A. The first occasion.

20 Q. And you certainly would go up to the 7-Eleven and
21 talk with her and continue a friendship with her at the
22 7-Eleven?

23 A. Yes.

24 Q. And the reality of your relationship with
25 Mechelle is it was a sexual relationship?

1 A. Yes.

2 Q. You would go over to her house and get a
3 blow-job, bottom line?

4 A. Yes.

5 Q. And you would show up at 2:00 o'clock in the
6 morning to get a blow-job?

7 A. Yes.

8 Q. You would call her at 3:00 o'clock in the
9 morning, "Can I roll by and get a blow-job?"

10 A. In other words, but yes.

11 Q. What other words?

12 A. "Can we hang out?"

13 Q. Okay. You're right. You wouldn't be that crass
14 as I'm being.

15 A. Right.

16 Q. I'm just trying to boil it down at 5:30. Okay?

17 A. Okay.

18 Q. And reality is, when you found out that she was
19 killed, you told Detective Stewart you were a tad bit
20 sad?

21 A. I was sad.

22 Q. You said a tad bit sad?

23 A. Yes.

24 Q. You said, "I'm not dying over this"?

25 A. Were those my words?

1 Q. If you need to watch the videotape, just tell me.

2 A. I'm okay.

3 Q. You told Detective Stewart with the attitude of
4 "I'm not dying over this." "I'm a tad bit sad."

5 A. I'm usually indifferent about death.

6 Q. And you were very -- and you were indifferent
7 about the death of Mechelle and about her son on March
8 the 24th of 2011, correct?

9 A. I believe so.

10 Q. This was a relationship that you had that was
11 really for your own sexual gratification?

12 A. It was physical.

13 Q. It was a physical relationship. You were engaged
14 to be married to a woman at the time that you were
15 showing up at Mechelle's house for sexual favors?

16 A. Yes.

17 Q. And you never let your fiancée know that you were
18 doing this?

19 A. No.

20 Q. And you were very clear with Detective Stewart
21 that you didn't want her to know that you were now being
22 talked to by a homicide detective because of this
23 relationship you had with Mechelle?

24 A. At the time, yes.

25 Q. And what is your fiancée's name?

1 A. Shelbi Jopson.

2 Q. Did you ever give that name to Detective Stewart?

3 A. I believe so.

4 Q. Do you know whether or not -- does Shelbi know
5 now why you're coming down here to testify?

6 A. Yes.

7 Q. You ultimately had to come clean with her about
8 your relationship with Mechelle?

9 A. Yes.

10 Q. And you still got married?

11 A. Yes.

12 Q. When did you get married, Tim?

13 A. May 20th of 2011.

14 Q. So you got married within about two months of
15 Mechelle's death?

16 A. Yes.

17 Q. And do you recall a time period -- Detective
18 Stewart was really interested in the week before
19 Mechelle was killed in relation to you; do you remember
20 that?

21 A. Yes.

22 Q. And he was really interested in a time period
23 when you showed up in the middle of night after calling
24 multiple, multiple times to her house; is that correct?

25 A. I don't recall multiple calling, but I do recall

1 calling her and showing up.

2 Q. Do you recall calling her multiple times or
3 several times and she did not answer?

4 A. I believe she answered on one of the occasions.

5 Q. You recall a time when you went over to her house
6 and you seemed to know the young man's name, you said
7 his name was Cameron, was coming out of her house?

8 A. I believe that might have been the name she gave
9 me.

10 Q. And she talked to you about the young man,
11 Cameron, that just left her house. Did she give you the
12 name Cameron Livingston?

13 A. I don't recall a last name.

14 Q. But you remember the name Cameron?

15 A. Vaguely.

16 Q. And you recall Detective Stewart believing that
17 you had showed up at her house with your brother so that
18 y'all could have a threesome with her on that night, or
19 if that was your plan, by bringing your brother over to
20 a house that you could get sexual favors at?

21 A. Not with my brother.

22 Q. And you said "no" to Detective Stewart, didn't
23 you?

24 A. I believe so.

25 Q. So you went over to her house about what time on

1 this night about one week before her death?

2 A. It was late. Most likely after 11:30 or
3 midnight.

4 Q. And you think that you called her several times
5 and she ultimately answered the phone?

6 A. I believe I spoke with her that night.

7 Q. And when you spoke with her, did she just say,
8 "Well, come on in, I've got this other guy, he's about
9 to leave," or, I mean, how did that work out?

10 A. I don't recall what we spoke about or her saying
11 that there was any other gentleman there at the time.

12 Q. Do you recall, though, being outside of her house
13 and making phone calls?

14 A. Not making calls outside of her house, no.

15 Q. You stopped making the phone calls once you got
16 to her house?

17 A. I stopped when I drove.

18 Q. Whenever you got to her house, how long was it
19 that you sat in front of her house?

20 A. Just a few minutes.

21 Q. And to be clear we're talking about her house at
22 Presidents Corner Apartments, aren't we?

23 A. Is that North Arlington?

24 Q. Yeah. Let me show you a picture. Would that be
25 helpful?

1 A. Sure.

2 Q. Is your memory good enough, you think you'd
3 recognize a picture of the apartments?

4 A. White apartments, four windows, staircases, I
5 believe so.

6 Q. I'll show you what has been marked -- now they've
7 been repainted from these pictures, but marked as
8 Defense Exhibit No. 1. Does that look like in general
9 what the house -- where the house was?

10 A. Yeah.

11 Q. And Defense Exhibit No. 3, absent the red color
12 of the -- it was brownish -- does that look like about
13 the apartments you were going to see Mechelle at?

14 A. Yes.

15 Q. And do you recall how many bedrooms were in that
16 apartment?

17 A. I believe two.

18 Q. And whenever you walked in the house, what did
19 you walk into, Tim?

20 A. The living room.

21 Q. And was there a kitchen right there, too?

22 A. Yes.

23 Q. Whenever you were at her house, there were times
24 where you would use her computer when you were at her
25 house, weren't there?

1 A. I don't recall.

2 Q. Do you recall actually using her computer on
3 February 13th, in the middle of the night, to check your
4 e-mails?

5 A. I don't recall.

6 Q. Do you recall using her computer on February 25th
7 in the middle of the night or at some point checking
8 your e-mails?

9 A. I don't recall.

10 Q. How long would you stay whenever you would show
11 up?

12 A. Anywhere from a half-hour to an hour and a half.

13 Q. Did you ever -- whenever you showed up, was her
14 son ever awake whenever you came over there?

15 A. No, he was asleep.

16 Q. And did her son have a separate room than where
17 you were?

18 A. Yes.

19 Q. So whatever sexual encounters you had, would you
20 have it in what room?

21 A. Living room or bedroom.

22 Q. After this meeting with going over there about a
23 week before, do you remember exactly what date it was
24 that you had the run-in with Cameron?

25 A. I had no run-in with a Cameron.

1 Q. Do you remember the date it was that she talked
2 to you about Cameron, about the evening before?

3 A. I do not.

4 Q. But you know it was about a week before she was
5 killed?

6 A. Within that week, yes.

7 Q. It was within that week. And within that week,
8 do you recall her calling you the next day and telling
9 you that she did not appreciate what happened the night
10 before?

11 A. Those weren't her words, but of that nature, yes.

12 Q. Did she say it was unacceptable?

13 A. Excuse me?

14 Q. Did she say it was unacceptable?

15 A. I don't recall her telling me it was
16 unacceptable.

17 Q. Do you recall telling Detective Stewart that she
18 called you the next day and told you that "you showing
19 up is unacceptable and I said 'okay'"?

20 A. I'm sorry, once again, you said okay or me?

21 Q. This would be your words. "She called me the
22 next day and said that 'you showing up is unacceptable'
23 and I said okay." Do you recall telling Detective
24 Stewart those words?

25 A. Paraphrased, yes.

1 Q. And so she called and talked to you about it.
2 And what really happened is once you saw this guy leave,
3 you went into her house and you began to look in all of
4 her garbage looking for condoms; is that correct?

5 A. No.

6 Q. Do you recall talking to Detective Stewart about
7 those allegations?

8 A. Yes.

9 Q. And telling Detective Stewart you did not go in
10 her house acting a fool looking for condoms?

11 A. Yes.

12 Q. Do you recall talking to Detective Stewart about
13 her being fearful of you from that day forward to the
14 point that she actually got a shotgun?

15 A. No.

16 Q. Or that she considered you to this point or was
17 curious of whether or not you were now becoming a
18 stalker?

19 A. No.

20 Q. All right. Did she make the pass towards you --
21 or did you make the pass towards her on that first
22 meeting?

23 A. I believe it was a mutual thing.

24 Q. Do you recall telling Detective Stewart that she
25 made the forward pass to make it happen?

1 A. She might have made the first eye wink.

2 Q. Do think that that would be the truth or is that
3 just something you were saying to Detective Stewart?

4 A. I believe that's the truth.

5 Q. Do you recall telling Detective Stewart that you
6 had ten sexual encounters?

7 A. Ten sexual encounters? Generally, just sexual
8 encounters?

9 Q. Yes.

10 A. I could, yeah.

11 Q. Actually, I don't know what you mean by generally
12 sexual encounters.

13 A. What do you mean by sexual encounters?

14 Q. I mean penis/vagina?

15 A. No.

16 Q. When you mean sexual encounters, what do you mean
17 when you use that term?

18 A. Anything physically contacting from one person
19 another, other than shaking hands and hugging.

20 Q. Okay. So mouth/penis would be sexual encounter?

21 A. Yeah.

22 Q. Okay. So is it your testimony today that in that
23 time period you knew her that you probably had ten
24 sexual encounters, or do you think more?

25 A. Maybe more. Ten or more.

1 Q. And do you recall telling -- when Detective
2 Stewart asked you if you'd ever taken her to dinner,
3 that you began to laugh?

4 A. Yes.

5 Q. Why?

6 A. Because that was not the nature of our
7 relationship.

8 Q. She was not your girlfriend?

9 A. No.

10 Q. In fact, you had to kind of push her back, you
11 told Detective Stewart, because she started getting
12 feelings about you?

13 A. Yes.

14 Q. Is that true?

15 A. I recall her having feelings for me one point in
16 our friendship.

17 Q. You do?

18 A. I do.

19 Q. About how long before you remember you had to
20 push her back, as opposed to this whole --

21 A. I don't know if it was more of a -- if it was a
22 push-back, that's an -- I don't think it was a
23 push-back. That's a very strong term.

24 Q. Okay. You recall telling Detective Stewart that
25 y'all were having sex, penis/vagina, until she began to

1 have feelings towards you and then you stopped doing
2 that?

3 A. I do not.

4 Q. Okay. How did that -- tell me what you remember
5 about that part.

6 A. I remember discussing our relationship and our
7 physical aspect of it. There being a point where she
8 had mentioned feelings and kind of liking me. She knew
9 my situation. She was aware.

10 Q. That you were engaged?

11 A. Yes.

12 Q. You were going to be married?

13 A. Yes.

14 Q. And so she knew that you were not a man who was
15 free?

16 A. Right.

17 Q. Do you know who this Cameron guy is?

18 A. No.

19 Q. Had you ever seen him prior to that night?

20 A. No.

21 Q. And then other than from her, how did you know
22 what his name was?

23 A. I believe that's -- that, and maybe Detective
24 Stewart.

25 Q. When Detective Stewart met with you, did he begin

1 to talk to you about wanting to get your -- a DNA sample
2 from you?

3 A. No.

4 Q. Do you --

5 A. He asked me if I was willing to give one, though.

6 Q. And did that cause you some concern?

7 A. No.

8 Q. Do you remember talking to Detective Stewart
9 about talking to your uncle and being at least curious
10 as to why a DNA sample would be needed?

11 A. I was curious as to the process, yes.

12 Q. And did you ultimately give a DNA sample?

13 A. I don't believe I did.

14 Q. Did you --

15 A. I apologize to interrupt.

16 I do believe they cotton-swabbed me, mouth
17 swab, oral.

18 Q. They came in with a little cotton swab and put it
19 in your mouth?

20 A. I believe so.

21 Q. And do you recall whether or not they talked to
22 you about getting your actual cell phone so they could
23 look at the different text messages that you'd sent?

24 A. I do not recall that.

25 Q. Most of y'all talking was by text message?

1 A. Yes, majority.

2 Q. You recall talking to Detective Stewart about
3 your -- giving him consent to get all your cell phone
4 records so it could show exactly where you were?

5 A. Yes.

6 Q. And do you recall talking to Detective Stewart
7 and giving him the different clothes you had on that
8 night?

9 A. I don't recall turning in my clothes, no.

10 Q. What about -- did anybody ask to search your car
11 or did you let them search your car?

12 A. I don't believe anybody searched my vehicle.

13 Q. Did anybody search your house or did you let them
14 search your house?

15 A. I don't believe anybody did, but I offered full
16 cooperation at the time.

17 Q. And so if they needed to search your house, you
18 would say search it, and if they needed to search your
19 car, you would say search it?

20 A. I guess.

21 Q. You realize being out of town was a good thing
22 for you, don't you, Timothy?

23 A. Not entirely.

24 Q. You really don't?

25 A. Not entirely.

1 Q. You have not looked back on this event and
2 thought, my, God, I am so glad I was bowling that
3 weekend?

4 A. For what reason would I think that?

5 Q. You were in a homicide detective's office seated,
6 correct?

7 A. Yes.

8 Q. And the homicide detective was asking you some
9 very difficult questions?

10 A. He was.

11 Q. You do not feel thankful that you were out of
12 town bowling on the weekend of the events that he was
13 talking to you about?

14 A. Thankful is not a good way -- an accurate way to
15 describe how I feel.

16 Q. What's a way to describe it then?

17 A. Indifferent.

18 Q. Just indifferent about all of it?

19 A. The whole situation. Maybe something would have
20 been different if I wasn't out of town.

21 Q. What does that mean?

22 A. It means anything. The situation could have been
23 different. Life could have been different. I might not
24 lost as much money. Other people might not have been
25 hurt, who knows. But me being out of town is reality.

1 That's where I was.

2 Q. At the casino that you were at, what was the name
3 of the casino?

4 A. Riverwind.

5 Q. And at Riverwind do they have videos?

6 A. Most hotels and casinos do. I believe they do.

7 Q. And do you know whether or not they had videos of
8 you being there at the casino?

9 A. Well, if they have videos, then they would have
10 videos of me being at the casino.

11 Q. Your phone is not in your name, is it?

12 A. No.

13 Q. Your phone is in your -- your home -- your
14 buddy's name; is that correct?

15 A. It was.

16 Q. Then how would we know that that's a phone that
17 you have on you?

18 A. Do you have a record of me talking to the police
19 officer in Arlington?

20 Q. I'm asking. You -- how we would know that that's
21 your phone? How would we know the police officer didn't
22 call that phone number and talk to your buddy Brandon?

23 A. Because I had the phone and still have phone and
24 I was there, with video of me answering the phone.

25 Q. So we would need to get video from Riverwind to

1 make sure that it really was you and not your buddy
2 Brandon, because your phone number comes back to a dude
3 named Brandon, Timothy.

4 A. His phone was there, too. That would be up to
5 you guys.

6 Q. You still don't realize how lucky you are to be
7 out of town, do you?

8 A. Do -- would you consider yourself lucky?

9 Q. Absolutely.

10 A. Awesome.

11 MS. KEENE: I'll pass the witness, Judge.

12 MR. ROUSSEAU: One question, Judge.

13 REDIRECT EXAMINATION

14 BY MR. ROUSSEAU

15 Q. You were asked an awful lot of questions about
16 your interview with Detective Stewart. Do you recall
17 that?

18 A. Yes.

19 Q. Fair to say you don't really remember everything
20 that's in those -- in that interview?

21 A. No.

22 Q. You have not reviewed that interview, correct?

23 A. Correct.

24 Q. And it was given to Detective Stewart three and a
25 half years ago, correct?

1 A. Yes.

2 Q. Did you even know, at the time that you were
3 being interviewed by Detective Stewart, did you even
4 know that you were being video recorded?

5 A. I don't believe so.

6 Q. There's no camera visible in this room, is there?

7 A. No.

8 Q. Would it surprise you or would you quibble with
9 me at all, if I were to tell you that there's not one
10 word, not one single question about Mechelle being
11 fearful to the point -- of you, to the point that she
12 got a shotgun, not one word? Would that surprise you?

13 A. I'm sorry. Repeat.

14 Q. Would you be surprised or would you question me
15 if I were to tell you that there's not one word about
16 Mechelle getting a shotgun because she was afraid of
17 you?

18 A. No.

19 Q. Because was she, to your knowledge?

20 A. No.

21 MR. ROUSSEAU: That's all I have, Your
22 Honor.

23 MS. KEENE: I've got one question.

24 RE CROSS-EXAMINATION

25 BY MS. KEENE:

1 Q. Does your fiancée smoke cigarettes?

2 A. No.

3 Q. Do you smoke?

4 A. Yes.

5 Q. What do you smoke?

6 A. Cigarettes.

7 Q. What kind?

8 A. Whatever. I buy -- be Marlboro 27s today.

9 Q. Marlboro brand number 27?

10 A. Yeah.

11 MS. KEENE: I'll pass the witness.

12 FURTHER REDIRECT EXAMINATION

13 BY MR. ROUSSEAU:

14 Q. You got them in your pocket?

15 A. I do.

16 Q. Hold it up, please.

17 Those hard to find?

18 A. No.

19 Q. Have to send off for them or anything?

20 A. No.

21 Q. By them at 7-Eleven?

22 A. Just did.

23 Q. All right. Thank you.

24 FURTHER RECROSS-EXAMINATION

25 BY MS. KEENE:

1 Q. Do you know if Mechelle smoked?

2 A. I believe so.

3 Q. Do you know what brand she smoked?

4 A. I do not.

5 Q. Okay.

6 MS. KEENE: Thank you, Judge. I pass the
7 witness.

8 MR. ROUSSEAU: Nothing further.

9 THE COURT: All right. May the witness be
10 excused subject to recall, only if --

11 MR. ROUSSEAU: Oh, one more thing.

12 THE COURT: -- needed?

13 Okay. Well, never mind.

14 MR. ROUSSEAU: No, he can be excused. I can
15 do this without a witness, Your Honor.

16 THE COURT: Oh, okay.

17 So the witness can be excused. Does the
18 jury need to remain?

19 MR. ROUSSEAU: Just for a second, Judge.

20 THE COURT: All right. Then you're excused.
21 Just remember your instructions, who can and cannot talk
22 to and about what until you find out the trial is over.
23 We'll only get you back if something were to pop up. If
24 you get a call from them, it's like a call from me. And
25 in all fairness, if you sat outside all day, that's

1 always my fault. It's not theirs.

2 Does that make sense?

3 THE WITNESS: Yes, sir.

4 THE COURT: All right. If you'll hand those
5 to the court reporter as you walk by. Thanks for coming
6 in.

7 (Witness excused from courtroom)

8 MR. ROUSSEAU: Your Honor, I'll offer
9 State's Exhibit No -- I'm sorry. I'll offer State's
10 Exhibit 243, phone records pertaining to the telephone
11 that Mr. Jopson just testified to as being his,
12 accompanied by business records affidavit after having
13 been on file for the requisite number of days.

14 MS. KEENE: Judge, I doubt I'm going to have
15 an objection. Can I -- we don't need the jurors here.
16 I just want to look at the -- because it's a number of
17 pages, look at the actual record. So I can do that
18 and --

19 THE COURT: Can I send them home and you can
20 tell me --

21 MS. KEENE: Exactly.

22 THE COURT: -- first thing in the morning?

23 MS. KEENE: That's what I was going to tell
24 you. They don't need to sit here while I look at this.

25 THE COURT: All right. You good with that,

1 Mr. Rousseau?

2 MR. ROUSSEAU: That's fair to me, Your
3 Honor.

4 THE COURT: All right. Members of the jury,
5 a few minutes behind is not as bad as my clock sometimes
6 is. See y'all in the morning. Get a good night's
7 sleep.

8 Everyone remain in the courtroom until the
9 jury leaves the floor.

10 (Recessed for the day at 5:45 p.m.)

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COURT REPORTER'S CERTIFICATE

THE STATE OF TEXAS)
COUNTY OF TARRANT)

I, Karen B. Martinez, Official Court Reporter in and for the 372nd District Court of Tarrant County, State of Texas, do hereby certify that the above and foregoing contains a true and correct transcription of all portions of evidence and other proceedings requested in writing by counsel for the parties to be included in this volume of the Reporter's Record, in the above-styled and numbered cause, all of which occurred in open court or in chambers and were reported by me.

I further certify that this Reporter's Record of the proceedings truly and correctly reflects the exhibits, if any, admitted by the respective parties.

I further certify that the total cost for the preparation of this Reporter's Record is **located at the end of Volume 21**.

WITNESS MY OFFICIAL HAND this the 30th day of March, 2015.

/s/ Karen B. Martinez

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